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# Skyline news

Reporting on New York's Health Care News

## President Bush Proposes Draconian Medicare and Medicaid Cuts

On February 4, President Bush proposed his budget for Federal fiscal year 2009, which begins on Oct. 1, 2008. The President's budget contains the largest Medicare cuts to hospitals, nursing homes, and home health care providers in memory. He also proposed major reductions in Medicaid spending, over and above the cuts he would achieve through regulations proposed in 2007.

GNYHA/1199 SEIU advertisement protesting the President's proposed health care cuts.



**Medicare Cuts:** The President calls for \$182.7 billion in Medicare cuts over five years—including payment freezes for hospitals, nursing homes, and home health providers, as well

as the phased elimination of payments for Medicare bad debts. Particularly hard hit by the President's budget are teaching hospitals and Medicare disproportionate share (DSH) hospitals, which would see major cuts in the special payments designed to help teaching and DSH hospitals cover the extra costs they incur when caring for Medicare

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## Congressmen Pallone, King Introduce Medicaid Matching Rate Bill

On February 7, House Energy and Commerce Health Subcommittee Chairman Frank Pallone (D-NJ) and Congressman Peter King (R-NY), joined by House Energy and Commerce Chairman John Dingell (D-MI) and Congressman Tom Reynolds (R-NY), introduced legislation to provide a temporary increase in the Federal

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## Governor Spitzer Seeks More Savings in "21-Day Amendments"

**GNYHA Testifies Before NYS Finance and Assembly Ways and Means Committee**

On February 12, New York Governor Eliot Spitzer issued amendments to his proposed Executive budget in the so-called 21-day amendments. As a result of a worsening economy since the release of the State fiscal year (SFY) 2008–09 Executive budget in January, the Division of Budget has downsized its original revenue forecast of \$124.3 billion by \$384 million. In response, the Governor is seeking further savings from the health care community, as follows:

- Increase the Medicaid inflation, or "trend factor," reduction to 35% from 25% for all providers, including hospitals, nursing homes, and home care agencies, for an additional SFY 2008–09 savings of \$36 million.
- Increase projected savings from the implementation of the Berger Commission recommendations. In the Governor's original budget, he projected savings of \$43 million in the State Medicaid program in hospital

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### GNYHA BOARD MEETS

The GNYHA Board of Governors met on February 7, 2008, and took the following actions:

- was briefed on the hospital and long term care impacts of the cuts proposed by President Bush in the final Executive budget of his Administration (see story on this page);
- discussed Governor Spitzer's Executive budget proposal, including Medicaid cuts, potential medical malpractice cost relief, diagnosis-related group reweighting, graduate medical education reform, changes in the behavioral health delivery system, and changes to ambulatory care;
- approved GNYHA's participation as an *amicus curiae* in a case brought in NYS court challenging, among other things, the ability of the Public Health Council to consider the negative impacts to hospitals and the care they provide when reviewing freestanding, non-hospital-based ambulatory surgery center Certificates of Need; and
- said farewell to Pat Wang, J.D., a 16-year veteran of GNYHA and Senior Vice President of Finance and Managed Care, who will become President and CEO of HealthFirst, Inc. in March. ■

# NYS Requests Grant Applications for Nursing Home Rightsizing; \$30 Million Available Under Phase 8 of HEAL NY

The New York State Department of Health (DOH) and the Dormitory Authority of the State of New York (DASNY) recently released a request for grant applications (RGAs) for up to \$30 million in funding under Phase 8 of the Healthcare Efficiency and Affordability Law for New Yorkers (HEAL NY) program. This special phase of HEAL, which was authorized as part of the 2007–08 State budget agreement, is intended to support the restructuring of New York’s nursing home infrastructure. The primary goal of Phase 8 is to assist facilities in reducing their certified inpatient bed capacity, which the State has identified as a policy goal for the industry. In order to achieve this goal, the

HEAL NY program will support acquisition, construction, reconstruction, equipment, and information technology costs, as well as support functions that are necessary to achieve this goal.

There is no cap on individual grant awards. Applications will be accepted on a rolling basis between March 17 and June 2, 2008.

In the last several weeks, DOH and DASNY have also released RGAs for Phases 6 and 7 under the HEAL NY program to support the development of the primary care infrastructure and further capital restructuring, for up to \$100 million and \$150 million, respectively (see *Skyline News*, Feb. 4, 2008,

for full story).

**Status of HEAL NY/F-SHRP Program:** The HEAL NY grant programs are being supported by funding authorized under the HEAL NY legislation and funding from the Federal-State Health Reform Partnership (F-SHRP). The total funding available under both HEAL NY and F-SHRP is \$2.5 billion, of which approximately \$1.2 billion has now been allocated. Awards totaling approximately \$844 million have been announced for Phases 1 through 4 of HEAL NY. An additional \$386 million is scheduled to be awarded under Phases 5 through 8, which have been released as RGAs but for which no awards have been made as of yet. ■

## President Bush Proposes Draconian Medicare and Medicaid Cuts continued from page 1

patients. In addition, hospitals would suffer from proposed Medicare capital cuts and reimbursement rate cuts for rehabilitation and dialysis services. In a briefing document provided by the U.S. Department of Health and Human Services, the Administration signaled that it would also seek \$1.6 billion in Medicare savings over five years through the implementation of a new pay-for-performance or “value based purchasing” initiative, though no details were provided.

**Medicaid Cuts:** The president proposes \$18.2 billion in cuts over the next five years beyond what he has already proposed, including 2007 regulations that would eliminate Federal funding for Medicaid graduate medical education costs in teaching hospitals and regulations that would restrict states’ ability to draw down Federal matching funds to help public providers serve the poor and uninsured.

**Response from GNYHA and the Health Care Community:** GNYHA reacted strongly to the President’s budget proposal and the devastating impact it would have on providers in New York, who stand to lose \$1 billion in 2009 and \$10 billion over five years, according to estimates by GNYHA and the Healthcare Association of New York State (HANYS).

GNYHA President Kenneth E. Raske was

quoted in *The New York Times* (“Bush Seeks Surplus via Medicare Cuts,” Jan. 31, 2008), observing that the President’s proposals showed “great insensitivity to teaching hospitals” and that they would “undermine our ability to train young doctors at a time when the nation is facing a shortage of doctors.” He was also quoted in *The New York Sun* (“Bush Budget May Hit N.Y. Hospitals,” Feb. 7, 2008), referring to the President’s proposed cuts as “astronomical” and warning, “There is no way that New York hospitals can absorb those kinds of cuts without cutting into the flesh and bone of the operations.” He added, “I can’t remember seeing cuts of this magnitude that are so aimed at teaching hospitals and hospitals that serve the poor.”

On February 13, the Healthcare Education Project—a joint effort of GNYHA and 1199 SEIU United Healthcare Workers East—placed an advertisement in *The New York Times*, *The Washington Post*, and other newspapers urging Congress and the public to join them in their battle against the president’s cuts.

**Congressional Response:** Congressional reaction was equally scathing. House Ways and Means Chairman Charles Rangel (D-NY), in a statement, said, “The drastic reductions President Bush proposed would threat-

en coverage for millions, force the closure of hospitals, and discourage other health care providers from serving seniors or elderly patients. With more than 46 million uninsured Americans, Congress and the Administration must work to expand, not limit, American families’ access to reliable, affordable health care and this budget would only exacerbate this growing problem.”

Senator Charles Schumer also decried the cuts in a press release in which he highlighted the impact on hospitals across the State.

**Bipartisan Opposition:** In cooperation with the American Hospital Association, GNYHA and HANYS are working to secure signatures on two bipartisan letters—one spearheaded by Congressmen Richard Neal (D-MA) and Phil English (R-PA) to the leaders of the House Budget Committee, and one by Senators Blanche Lincoln (D-AR) and Pat Roberts (R-KS) to the leaders of the Senate Budget Committee—urging the committees to reject the president’s Medicare and Medicaid cuts in the budget resolution, on which they will begin work in the coming weeks.

GNYHA and HANYS also jointly briefed members and staff of the New York Congressional Delegation in Washington on February 15. ■

# GNYHA Members Advocate in Albany on Behavioral Health Issues

## Precipitous Cuts Threaten Medicaid Inpatient Detox Services and Outpatient Mental Health Programs

On February 12, GNYHA members were in Albany to participate in Behavioral Health Advocacy Day, sponsored jointly by GNYHA and the Healthcare Association of New York State (HANY). The day was designed to educate key legislators and staff who serve on the relevant health and behavioral health committees about the impact on hospitals of proposed payment cuts to Medicaid inpatient detoxification services and the elimination of specialty rates for certain outpatient mental health programs.

**Detoxification Services:** Legislators and their staff were informed about the Executive budget proposal to cut \$35 million in funding to inpatient detoxification services, which translates into a \$70 million cut to hospitals. Hospital representatives warned that an immediate cut of that magnitude, to be borne by a subset of NYS hospitals, will create significant financial hardship and jeopardize continuation of the service in some cases. GNYHA has worked in recent years with the Office of Alcohol and Substance Abuse Services to reform the detoxification delivery system, and providers have consistently noted the need for ambulatory program growth to decrease reliance on costly inpatient detoxification services. The absence of investments in ambulatory detoxification program growth coupled with the potential closures of inpatient services will create access issues for individuals requiring detoxification. GNYHA advocated

that such a significant change in reimbursement be phased in via the same manner as other reimbursement changes in order to maintain this necessary service.

**Mental Health Specialty Rates:** Certain Article 28 mental health clinics receive a specialty rate for continuing day and day-treatment programs offered by the hospital. This year's budget again proposes to eliminate this funding, resulting in cuts of over \$4 million to nine hospitals across NYS. This cut has a significant financial implication for each of those hospitals and jeopardizes the continuation of these essential programs. Specialty rates cover the extended treatment hours and overhead costs associated with hospital-based services. Individuals with serious and persis-

tent mental illness, in many cases, maintain community tenure by attending structured and supportive day treatment programs. GNYHA requested that legislators reject this cut at this time as the State continues focused efforts on reforming ambulatory mental health reimbursement.

**GNYHA Member Participation:** Participating GNYHA member institutions included Bronx-Lebanon Hospital Center, Continuum Health Partners, John T. Mather Memorial Hospital, MediSys Health Network, NYC Health and Hospitals Corporation, NewYork-Presbyterian Hospital, North Shore–Long Island Jewish Health System, and St. John's Riverside Hospital. GNYHA appreciates their participation in this important event. ■

### Legislative Digest

In recent weeks, the New York State Assembly has taken action on the following health-related pieces of legislation:

**Approving Applications for Hospital Establishments:** The NYS Assembly Health Committee approved A.6015, which requires that prior to approving applications for establishment, incorporation, or construction of health care services, the NYS Health Commissioner must affirmatively find that certain conditions are met. GNYHA opposes this proposed bill because current statutes and regulations are sufficient to ensure access to those in need of health care services, and requiring additional review of proposed projects will result in delayed approvals for the projects. • **Ceiling Lifts in Hospitals and Nursing Homes:** The NYS Assembly referred A.8165/S.315 to the floor for vote. GNYHA opposes the proposed bill because any promulgation of rules and regulations requiring the installation and use of ceiling lifts in hospitals and nursing homes should be done solely through the regulatory process and not through a change of law. The NYS Department of Health has already convened its "Construction Standards Advisory Group," which consists of representatives with expertise in hospital design and construction. • **Blood Donations:** The NYS Assembly referred A.4608/S.2161 to the floor for vote. GNYHA supports the intent of the proposed bill as it would provide grants to non-profit organizations and schools to assist with the costs of running blood drives, thus responding to a critical need to increase the blood supply in New York by creating opportunities to donate. ■

### Upcoming GNYHA Member Briefings

#### Compliance Workgroup

**Date:** Friday, February 29, 2008

**Time:** 9:30 a.m.–12:00 noon

**Location:** GNYHA Conference Center, 555 West 57th Street, 15th Floor

Brian Flood, the former Medicaid Inspector General of Texas and a current Managing Director at KPMG, will lead this briefing on anticipated Federal and State health care enforcement activities and the operational, audit, and internal communication changes they may prompt in hospitals and among other health care providers. Mr. Flood will provide an overview of current and future governmental investigative activities

and will outline practical and preemptive solutions for hospitals facing these types of inquiries. His discussion will cover recommended actions in areas beyond traditional compliance responses. For more information, contact Deborah Brown at GNYHA ([brown@gnyha.org](mailto:brown@gnyha.org)); to register, contact Laurie Sangirardi at GNYHA ([sangirardi@gnyha.org](mailto:sangirardi@gnyha.org)).

#### Critical Care Leadership Network Educational Program: End-of-Life and Palliative Care in the ICU

**Date:** Wednesday, March 12, 2008

**Time:** 9:00 a.m.–4:00 p.m.

**Location:** GNYHA Conference Center, 555 West 57th Street, 15th Floor

GNHYHA, in partnership with the United Hospital Fund, will host an educational program focusing on clinician and patient/family communication at the end of life. The sessions will aim to improve the quality of such communication, specifically with regard to helping patients and families with the transition to palliative care, negotiating the withdrawal of life-extending treatment, and making decisions about "do not resuscitate" directives. A portion of the day will be devoted to the conceptual, ethical, and operational

issues of providing end-of-life care to patients in the ICU. The afternoon will be devoted to simulated communications training using typical scenarios that occur in the ICU between patients, their families, and the clinical teams who care for them. There will be a nominal registration fee of \$25 for the day-long session. **Critical care physicians from all GNYHA member hospitals are urged to attend.** For registration and more information, visit [www.gnyha.org/endoflifecare](http://www.gnyha.org/endoflifecare) or contact Eden Rollins at GNYHA at [erollins@gnyha.org](mailto:erollins@gnyha.org). ■

## Governor Spitzer Seeks More Savings *continued from page 1*

spending and \$10 million in nursing home spending. He is now proposing an additional \$10 million for hospital savings.

- The Governor proposed \$20 million for the Health Care Reform Act's (HCRA's) health care facility restructuring pool. This pool is designed to help financially struggling hospitals and nursing homes restructure their operations.
- Raise the proposed increase in the covered lives tax from \$140 million to \$190 million.
- Require prior authorization of prescriptions not covered by Medicare Part D and increase the use of generic drugs in EPIC, the Elderly Pharmaceutical Insurance Program (the physician's decision about which drug is prescribed will prevail), for an SFY 2008–09 savings of \$19 million.
- Provide funds for several public health programs including cervical cancer vaccination, lead poisoning prevention, immunization, and childhood obesity prevention through assessments on insurance companies, for an SFY 2008–09 savings of \$25 million.

GNYHA will continue to work diligently on analyzing and modeling the impact of the budget proposals on hospitals and will continue to work with the Executive and Legislature to replace many of the cuts in the budget with meaningful reform and to decelerate the timeline for implementing many of the objectionable proposals.

**GNYHA Testimony:** Meanwhile, on February 6—before the Governor released his proposed budget amendments—GNYHA President Kenneth Raske testified on the original Executive budget proposal for SFY 2008–09 before the NYS Finance and Assembly Ways and Means Committee. Mr. Raske noted that he was pleased that the Executive branch has engaged GNYHA in discussions on good-

faith reform efforts but he expressed GNYHA's concern about the complexity of this year's budget and its reimbursement rate cuts. He also stressed that, unless and until the full impact of the proposals on hospitals and patients can be clarified, legislators should not be asked to approve them. He did, however, note several budget proposals that deserve support, such as the expansion of the Child Health Plus program, initiatives to better manage the care of the chronically ill, investments in ambulatory care, and increased assessments on health plans.

The hospital proposals and respective hospital losses in the Executive budget that are of major concern to GNYHA include Medicaid inpatient rebasing (\$104 million), which would change the way hospitals are reimbursed for Medicaid inpatient services, reducing payments for some hospitals, increasing payments for others, and redistributing funds in ways that cannot be modeled at this time, as well as eliminating workforce recruitment and retention funds; restructuring outpatient

reimbursement rates (\$120 million); reducing reimbursement for detoxification services (\$70 million) by phasing in a much lower per diem rate based on 2006 costs; eliminating outpatient behavioral health day-night rates (\$4.2 million), which represents significant cuts to hospitals that receive specialty rates for certain behavioral health outpatient programs; reducing the Medicaid trend factor; shifting funding from the HCRA Graduate Medical Education Pool to other uses (\$15.6 million); and phasing in changes to the bad debt and charity care pool allocation methodology (impact unknown).

Mr. Raske acknowledged current economic difficulties both nationally and statewide, but he emphasized the need for relief measures that reduce hospital costs, such as a reduction in medical malpractice premiums for both hospitals and physicians. GNYHA looks forward to working with the Executive and Legislature on crafting a proposal that will provide "scoreable" savings for hospitals and doctors that will be included in the final enacted budget for SFY 2008–09. ■

## Congressmen Pallone, King Introduce Medicaid Matching Rate Bill *continued from page 1*

Medicaid matching rate for states. The temporary increase, which would equal a 2.95% across-the-board increase in the Federal matching rate for five calendar quarters—the last two quarters of 2008 and the first three quarters of 2009—is designed to enable states to avoid cutting their Medicaid programs during the current economic downturn. The benefits of the bill would accrue only to states that have not passed legislation to restrict Medicaid eligibility since January 1, 2008, or, if they have passed such legislation, that repeal the new restrictions. Congressman

King and others had urged inclusion of this provision in the economic stimulus package approved recently by the House and Senate but were rebuffed as a result of strong opposition from the White House.

GNYHA is extremely grateful to the members of Congress who have sponsored and cosponsored this important legislation and looks forward to working with them so that the bill can be enacted this year. The bill would provide hundreds of millions of dollars in relief to the financially strapped State budgets in New York, New Jersey, and Connecticut. ■

## SHRPC UPDATE

At its meeting on February 7, 2008, the State Hospital Review and Planning Council (SHRPC) approved (in some cases with conditions or contingencies), the following GNYHA member projects:

**LONG ISLAND JEWISH MEDICAL CENTER**, construction of a new Women's Hospital bed tower and certification of 35 net new maternity beds; **STATEN ISLAND UNIVERSITY HOSPITAL NORTH**, amendment of the previously approved Certificate of Need (CON) to renovate and expand the existing emergency department because of project cost increase; **ST. MARY'S HOSPITAL FOR CHILDREN, INC.**, major modernization and expansion; **METROPOLITAN JEWISH GERIATRIC CENTER**, amendment of the previously approved CON because of an increase in the cost of the project; and **ST. JOHN'S QUEENS HOSPITAL**, designation as a stroke center.

The following ambulatory surgery centers received approval for a five-year limited life: Amherst General Endoscopy Center, approval for change in ownership of **KALEIDA HEALTH CARE SYSTEM'S** Amherst extension clinic; AllHealth Diagnostic and Treatment Center; and The Plastic Surgery Center of Westchester, LLC. ■