



August 15, 2008

# Skyline news

Reporting on New York's Health Care News

## Governor Paterson Proposes Deep Health Care Cuts

On August 11, New York Governor David Paterson proposed \$1 billion in State savings and revenue measures, including \$505 million in health care savings and new taxes on health care providers, in an effort to get a “jump start” on next year’s budget deficit. The Governor has asked the State Legislature to enact \$600 million of the \$1 billion he proposed when it convenes for the Special Economic Session in Albany tomorrow. GNYHA and its allies—1199 SEIU United Healthcare Workers East, as well as the Healthcare Association of New York State (HANYS)—strongly oppose the proposed cuts to hospitals, nursing homes, and home care providers.

**The Governor’s Proposals:** GNYHA estimates that the proposed cuts will cost hospitals and nursing homes in New York State nearly \$2 billion in lost Medicaid revenue and in new taxes through the end of the next State fiscal year. The Medicaid hospital cuts include the elimination of the 2008 and 2009 inflation or “trend” factors, as well as a 7.2% across-the-board cut in Medicaid reimbursement rates for the rest of the State fiscal year and a 3.6% across-the-board cut for the next fiscal year. A 0.7% tax on hospital revenues would also be imposed. For nursing homes, the Medicaid cuts include the elimination of the 2008 and 2009 trend factors, as well as a 4% across the board reimbursement rate cut for the remainder of this fiscal year and a 2% cut next year. Nursing home rebasing would also be postponed until April 1, 2009, and transition

payments would be eliminated. Home care agencies would likewise suffer the elimination of the 2008 and 2009 trend factors and a 1% across-the-board cut, as well as new caps on administrative expenses.

**GNYHA Action Plan:** Shortly after the Governor announced the cuts, the Healthcare Education Project, a joint project of GNYHA and 1199 SEIU (see story, page 4), released a statement that was picked up by news outlets Statewide and called on the State Legislature to reject the cuts. “A hospital reimbursement rate reduction of 7%, plus an assessment on

hospital revenues, would seriously disrupt health care services for all New Yorkers and push some hospitals to the brink of closure,” said GNYHA president Kenneth E. Raske. “Is there a counter plan to reduce hospitals’ cost of doing business by 7%? It is unacceptable that hospitals and nursing homes are being asked to shoulder a vastly disproportionate share of proposed funding cuts—especially considering the enormous sacrifices hospitals have already made as a result of the Berger Commission, which is in the final stages of closing

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## Congress to Consider Medicaid Relief with Stimulus Package

Prior to adjourning for the summer recess, Congress laid out priorities for when they return in September, and at the top of the agenda is a second economic stimulus package intended to provide significant financial relief to states affected by the economic downturn. As part of their stimulus package, the House is considering a temporary increase in the Federal matching rate for Medicaid, otherwise known as the FMAP. Under consideration is the inclusion of H.R.

5268, introduced by Energy & Commerce Committee Chairman John Dingell (D-MI), with Health Subcommittee Chairman Frank Pallone (D-NJ) and New York Republicans Peter King and Tom Reynolds, which would provide an across-the-board 2.95% increase to each state’s FMAP rate for five quarters.

According to Governor Paterson’s Washington office, which has advocated for FMAP relief as a top priority, such a tempo-

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# Governor Paterson Signs Patient Safety Legislation

On August 5, 2008, New York Governor Paterson signed into law legislation designed to improve patient safety, enhance the State's authority in medical investigations, and help to prevent future transmissions of infections. The new law, which amends the State's Public Health, Education, and Criminal Procedure Laws, strengthens and improves the physician disciplinary process, makes information about particular professional misconduct proceedings available to the public, and enhances infection control practices and training. Most sections of the new law will take effect 90 days after enactment. Key provisions in the new law are:

- Formal charges brought against a physician may now be made public upon service of the charges when an Office of Professional Medical Conduct (OPMC) investigation committee has unanimously voted to proceed with a hearing. Moreover, all findings of a hearing committee, including its conclusions, determinations, and order, shall also become public upon issuance.
- Copies of the charges and notice of the hearing must now be served on the physician at least 30 days prior to a hearing (previously the law required service only 20 days before the hearing) or to make

the charges public. Moreover, OPMC counsel must, as soon as practicable after service of charges, and on a continuing basis, provide the physician with any information or documents in its possession that tends to prove the physician's innocence.

- Each physician must update his or her profile information within six months prior to the expiration date of the physician's registration period as a condition of registration renewal. In addition, each physician must attest under penalty of perjury that he or she has, within the six months prior to the submission of re-registration, updated his or her profile. This latter provision is effective January 1, 2009.
- As part of their medical school orientation, every medical student, medical resident, and physician assistant student must complete course work or training in infection control practices, and such training must now include practices to prevent the transmission of HCV. Moreover, the law requires that all categories of practitioners subject to the training requirement provide to DOH documentation demonstrating the completion of and competence in the required coursework or training.
- Moreover, on or before September 1, 2008, and periodically thereafter (as the Commissioner of Health deems necessary), Department of Health (DOH) will review and revise coursework and training content in infection control in order to reflect current infection control standards and practices.
- OPMC, in consultation with DOH's Patient Safety Center, will review on a continuous basis medical malpractice claims and dispositions reported to DOH in order to identify potential misconduct. OPMC must then begin an investigation if potential misconduct is identified as a result of such review.

GNYHA has prepared a detailed summary of the new law, which is available on its Web site (see member letter bulletin ML-85, dated August 11, 2008). ■

## SHRPC UPDATE

At its August 7, meeting, the State Hospital Review and Planning Council (SHRPC) approved (in some cases with conditions or contingencies), the following GNYHA member projects: **Orange Regional Medical Center**, construction of a second shared cardiac catheterization/EPs laboratory (cath lab); **NYU Hospitals Center**, conversion of six existing medical/surgical beds to six allogeneic bone marrow transplant beds; **White Plains Hospital Center**, a major modernization of its facility; **Mount Sinai Hospital and Lutheran Medical Center**, a joint certification, where Mount Sinai Hospital would operate the existing cardiac catheterization laboratory located at Lutheran Medical Center. ■ **NEW MEMBERS:** Three new SHRPC members were introduced at the meeting: **Patricia Smith Bransford**, President, National Urban Technology Center; **Carolyn K. Callner**, Deputy Commissioner, Schenectady County Public Health Services; and **Edwin T. Graham**, President and CEO, Gilda's Club Capital Region NY. ■ **AMBULATORY SURGERY REPORT:** DOH staff presented preliminary research on the number of diagnostic and treatment centers (D&TCs) currently operating that provide ambulatory surgery services, i.e., freestanding, non-hospital-based ambulatory surgery centers (ASCs); their compliance with Statewide Planning and Research Cooperative System (SPARCS) reporting requirements; their payments into Health Care Reform Act (HCRA) pools; and their payer mix. Among the preliminary findings of the DOH research:

- **CON Applications:** 87 ASCs currently operate in New York State. Of these, eight are partially owned by a hospital (i.e., the hospital is not the principal operator).
- **SPARCS Reports:** 78 ASCs were required to report data to SPARCS (nine have yet to obtain the SPARCS platform and/or receive training in reporting). Of these, approximately 16 facilities have not filed all required SPARCS data, four received statements of deficiency for failure to file, and the remaining 12 either filed incomplete data or data in the wrong format.
- **HCRA Pool Payments:** Of 86 ASCs required to file reports, 18 were delinquent in the last cycle, and one is subject to Medicaid recoupment for prior periods. The 18 delinquent ASCs are in various stages of enforcement.

DOH continues to analyze encounter and claims data to compare payer mix and types of procedures in hospital-affiliated centers as compared to freestanding, non-hospital based ASCs. In addition to reviewing these data, DOH has surveyed the CON establishment policies of 19 other states and is meeting with stakeholders including the NYS Association of Ambulatory Surgery Centers, HANYS, and GNYHA. ■

# GNYHA Comments on DOH Medicaid Primary Care Standards

Last week, GNYHA submitted a comment letter to the New York State Department of Health (DOH) regarding proposed Medicaid primary care standards. As part of the release of these draft standards, DOH stated that it was considering making them effective as of January 1, 2009. In response to DOH's request for comments on the feasibility and appropriateness of these draft standards, GNYHA convened a workgroup ambulatory care directors, residency program directors, and planning directors from member hospitals to develop comments

and recommendations on the proposal. GNYHA also requested to meet with DOH to review the comments. In addition to comments on each specific standard, GNYHA made general recommendations regarding the DOH project, principally that DOH coordinate with health care provider associations to disseminate information and promote best

practices on better primary care practices. In particular, GNYHA does not believe that statewide standards for the delivery of primary care services should be used in any way for denial of Medicaid payments. The complete comment letter is available on the GNYHA Web site, [www.gnyha.org](http://www.gnyha.org) (see member letter bulletin ML-91, dated August 14, 2008). ■

## Save the Date



### Upstate New York "Where to Practice" Open House

Sunday, September 28, 2008

Sheraton New York Hotel and Towers  
53rd Street & 7th Avenue  
New York, NY

New York trains more residents than any other place in the United States. Take advantage of the Downstate's rich resident population by reserving your table at the 2008 "Where to Practice" Open House.

Last year, more than 200 residents attended the event. This year, we hope to attract even more residents with timely presentations from the Department of Health on loan forgiveness, J-1 visa waivers, and new opportunities made available through the Doctors Across New York program.

To RSVP and hold your space, contact:

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[isenegger@gnyha.org](mailto:isenegger@gnyha.org)  
or  
Stacy Connors at IHA,  
[sconnors@iroquois.org](mailto:sconnors@iroquois.org)

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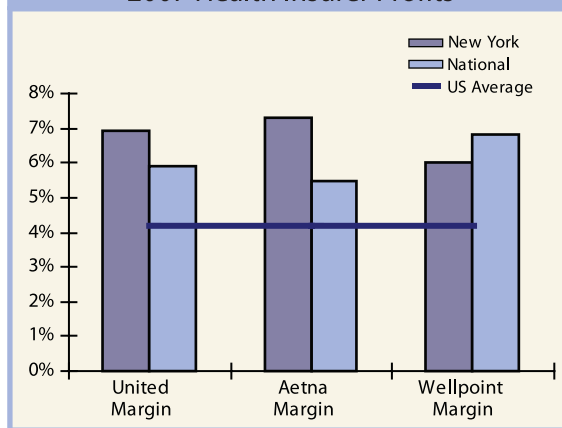
## Insurers' NYS Profits Exceed National Norms

Analysis of NAIC filings show that New York's three largest for-profit insurers continue to generate profits that exceed both State and national averages. United (Oxford), Aetna, and Wellpoint (Empire) all report 2007 margins of 6% or more in New York State. In contrast, health insurers nationally report an average margin of 4.2% for 2007, while health plans in New York State reported margins of 3.9% on average.

For United and Aetna, in particular, profit margins in New York far exceeded their own national averages. While Aetna reported a national margin of 5.5% for 2007, its New York profit margin was 7.3%. United's New York profit margin (6.9%) was a full percent-

age point higher than its national average (5.9%). And Oxford Health Plan, acquired by United in 2004, reported a 2007 profit margin of 8.7% in New York, contributing significantly to United's overall margin. Combined, the New York State profit for United, Aetna, and Wellpoint was approximately \$1 billion in 2007. ■

2007 Health Insurer Profits



## Health Care Cuts *continued*

and consolidating hospital services."

On August 13, the Project provided each State legislator with the specific impact of the cuts for each hospital in his or her district. The hospital-specific impacts, on which GNYHA collaborated with HANYS, were also released to the press. On August 14, a Project-sponsored radio advertisement in opposition to the cuts began airing on all major radio stations Statewide.

In addition, a print ad appeared in newspapers across the State, asking Legislators to hold off on the cuts until Congress has had the chance to act on an economic stimulus package, which could bring as much as \$1.8 billion in new Federal Medicaid funding to New York State (see Congress story, page 1). GNYHA will be working with the Governor and the State Legislature to protect its members from the proposed cuts throughout the Special Session on August 19 and beyond. ■

## Stimulus Package *continued*

rary increase is worth more than \$1.8 billion to New York State. Moreover, a Families USA analysis shows that the measure would yield another \$3 billion in additional business ac-

the country.

GNYHA, with Governor Paterson's Washington office, the Healthcare Association of New York State, and many other key stakeholders are strongly supporting this measure and continue to press for its expedient passage.

Impact of Temporary Increase in FMAP, as proposed in HR 5268				
State	Medicaid Relief	Business Activity	Wages	Jobs
NY	\$1.8 billion	\$3.0 billion	\$1.0 billion	25,100
NJ	\$291 million	\$548 million	\$183 million	4,400
CT	\$168 million	\$248 million	\$101 million	2,500
RI	\$67 million	\$107 million	\$37 million	1,000

Note: This is excerpted from a Families USA analysis, July 2008

tivity, \$1 billion in additional wages, and over 25,000 new jobs for the State. With current matching rates at 50%, New York, New Jersey, and Connecticut are counted among the states with the lowest possible FMAP rates in

recess, did not explicitly include an FMAP provision, states and other key stakeholders are advocating aggressively to ensure Medicaid relief is included in any measure that moves forward. ■

## DOH Proposes Mandatory Managed Care for Medicaid Enrollees with HIV

The New York State Department of Health (DOH) has announced that while it has recommended implementation of mandatory Medicaid managed care enrollment for individuals with HIV, the Governor's office will make the final decision. People with HIV are currently exempt from managed care enrollment but mandatory enrollment is permissible under existing State law. A recent DOH study of performance on selected HIV and HEDIS measures indicates better performance under managed care as compared to fee-for-service, prompting the recommendation. The study also showed lower hospital admission rates for those in managed care.

DOH has indicated that identifying individuals with HIV from claims data has proved difficult but estimates that up to 50,000 Medicaid fee-for-service enrollees could be impacted by mandatory enrollment. Individuals with HIV who meet other managed care exemption or exclusion criteria (e.g. those who are dually eligible, residing in a nursing home, participating in a long term home health care programs) would remain exempt. On September 3, DOH will meet with interested stakeholders to gather feedback on how to transition to mandatory enrollment. DOH does not believe that such a change requires Federal approval. ■

## Healthcare Education Project Releases Brochure

At the same time it was mobilizing an advocacy campaign to persuade the New York State Legislature to reject Governor Paterson's proposed \$505 million in Medicaid cuts and health care taxes (see story, page 1), the GNYHA/1199 SEIU Healthcare Education Project released a new brochure highlighting its mission and achievements.



**History:** Founded in 1999, the Healthcare Education Project's mission is to protect and expand access to quality, affordable health care for all New Yorkers. Its many advocacy successes include leading the fight to create New York's groundbreaking Family Health Plus program, which provides health insurance to approximately one million working New Yorkers and their families and championing the enactment of the Healthcare Efficiency and Affordability Law for New Yorkers (HEAL NY), which resulted in \$1 billion for capital investment in New York's aging health care facilities.

**Recent Campaigns:** More recently, the Healthcare Education Project launched creative campaigns to promote awareness of New York's world class teaching hospitals and the importance of graduate medical education, and to stop President Bush's proposed \$200 billion in cuts to New York State teaching hospitals over the next five years.

The Healthcare Education Project will continue its mission to educate and inform both the public and elected officials about issues critical to New York's hospitals, nursing homes, and home care workers. In the words of House Ways & Means Chairman Charles B. Rangel (D-NY), "The Healthcare Education Project has been a passionate and incredibly effective advocate for protecting and expanding access to affordable health insurance." ■

AROUND

**Wayne Keathley** has been named President and Chief Operating Officer of The Mount Sinai Hospital, effective September 1st. In his new position, Keathley will report to Dr. Ken Davis, President and CEO of The Mount Sinai Medical Center, and will continue to serve as the Executive Vice President for Business Development for the Medical Center at large.