



June 7, 2010

# Skyline news

Reporting on New York's Health Care News

## Health Care Community Renews Call for FMAP Relief

Before leaving Washington for a weeklong Memorial Day recess, the U.S. House of Representatives on May 28 passed an amended version of the American Jobs and Closing Tax Loopholes Act (H.R. 4213). The bill, designed to extend a variety of expiring laws, originally contained a provision to extend the Medicaid enhanced Federal matching rate (FMAP) relief for states included in the economic stimulus bill, the American Recovery and Reinvestment Act (ARRA), which President Obama signed into law in early 2009. Under ARRA, the FMAP relief expires December 31, 2010, and H.R. 4213 would have extended the relief through June 30, 2011.

Unfortunately, due to concerns from conservative House Democrats known as "Blue Dogs" as well as united Republican opposition, House Leadership decided to trim the \$194 billion bill, which would have added \$133 billion to the Federal budget deficit over 10 years, jettisoning a variety of provisions, including the FMAP extension, at the last minute. The FMAP piece would have cost \$24 billion.

**GNYHA Reaction** GNYHA is extremely concerned that the House removed the FMAP provision, as it would have provided more than \$3 billion in Federal relief for New York State and counties, including more than \$1 billion for the State government in the cur-

rent State fiscal year. New York Governor David Paterson and Albany lawmakers are counting on the enhanced FMAP funding to help them close an estimated \$9 billion

*continued on page 3*

## GNYHA Opposes Proposed NYPORTS Revisions

Last Tuesday, GNYHA and the Healthcare Association of New York State met with several key members of the New York State Legislature and their staffs to discuss the hospital community's opposition to and suggest amendments for a bill that would change the incident reporting requirements pertaining to the New York Patient Occurrence Reporting and Tracking

System (NYPORTS). The bill has been introduced by Senate Health Committee Chairman Thomas Duane (D-Manhattan) and the Assembly Health Committee Chairman Richard Gottfried (D-Manhattan) on behalf of the NYS Department of Health (DOH) and includes both prescriptive and programmatic changes as well as increases in

*continued on page 2*

JUNE 17, 2010

To help our members understand the challenges and opportunities in the new health reform laws, GNYHA has scheduled a series of sessions targeted at specific hospital personnel.

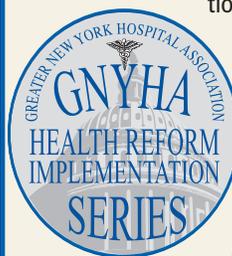
On June 17, GNYHA is having a Health Reform Summit for C-suite members.

Marilyn Tavenner, Acting Administrator of the Centers for Medicare & Medicaid Services (CMS) will be the keynote speaker. Karen Ignagni, President and CEO of America's Health Insurance Plans (AHIP) will also speak.

The meeting is from 8:30 a.m.–11:30 a.m. at the Roosevelt Hotel, 45 E. 45th Street in Manhattan; registration and breakfast open at 8:00 a.m. To RSVP, please contact Adriana Ramos ([aramos@gnyha.org](mailto:aramos@gnyha.org)); registra-

tion must be approved by an institution's CEO. To learn more about the other sessions, visit the Reform Series Calendar at [www.gnyha.org](http://www.gnyha.org).

org. ■



# PPACA Adds Resident Slots in New York Region

The Patient Protection and Affordable Care Act (PPACA), which President Obama signed into law on March 23, includes a provision that will produce additional resident slots for teaching hospitals located in the metropolitan New York region. Proposed regulations associated with this provision are expected to be released later this year.

Every teaching hospital in the country is subject to caps on the number of resident slots for which it is eligible to receive direct graduate medical education and indirect medical education payments. These caps were established as part of the Balanced Budget Act of 1997. Prior to enactment of PPACA, if a teaching hospital closed, the Medicare resident slots associated with that hospital disappeared, with one exception. Under a special regulation the Centers for Medicare & Medicaid Services (CMS) adopted in 1999, a teaching hospital that assumes the training of residents displaced from the closed hospital is entitled to a temporary resident cap increase. This temporary increase disappears when the displaced residents complete their training in that specialty.

PPACA directs the Secretary to develop a process to preserve on a permanent basis the Medicare resident cap positions from teaching hospitals that have closed. "Hospital closure" is defined in the Medicare program as the discontinuation or withdrawal of the Medicare provider agreement. The process must take into account the use of the closed hospital's slots by residents displaced by the closure. In other words, the Medicare program is not expected to fund a resident slot on a temporary basis (for the displaced resident) and simultaneously fund the permanently redistributed slot. The Medicare resident slots are to be preserved and distributed using a priority ordering. The first priority is for other teaching hospitals located within the same or contiguous core-based statistical area, taking into account affiliations that were in place prior to closure; then the same state in which the closed hospital was located; then the same region;

and then the rest of the country.

The provision applies to any hospital that closed from two years prior to the date of enactment of PPACA and would therefore capture in the permanent pool the 153 resident slots associated with Caritas Healthcare, which closed in February 2009.

As to the region's other recent large residency program closure—St. Vincent's Hospital Manhattan—and its 320 resident slots, the Medicare provider agreement is still active. Until the provider agreement is discontinued, the closed hospital provision included within PPACA is not applicable. ■

## NYPORTS *continued*

the penalty schedule for failing to meet reporting requirements.

GNYHA believes the proposed changes do not enhance the quality improvement and patient safety goals that should be at the core of any mandatory incident reporting program. GNYHA has long supported the concept that an effective incident reporting program is an essential component to creating a culture of safety and transparency within an institution that ultimately can help drive the institution to a high level of performance. However, GNYHA explained to legislators that the proposed bill focuses more on accountability for process and less on meaningful improvement in outcomes.

GNYHA is also concerned that DOH, which oversees incident reporting, will not be able to analyze the data and provide feedback to hospitals in a meaningful and actionable manner without additional resources.

GNYHA has several other concerns with the bill, including:

- The bill's proposed increased penalties unfairly punish hospitals that may fail to report within the requisite timeframe despite their best efforts to comply with the reporting obligations. GNYHA also does not believe that increasing the penalties as outlined in the bills will lead to more complete reporting. The justification for the increased penalties does not seem to take into account the significant resources hospitals expend to comply with the incident reporting obligations.

- Potential expansion of reporting obligations under this bill should be considered only with input from hospital representatives. This could be effectively achieved through reconvening the NYPORTS Statewide Council, something GNYHA has been requesting for the last two years. Additionally, GNYHA believes that what must be reported through the NYPORTS program needs to be significantly streamlined in order for both providers and DOH to focus their attention on the types of events that present the most risk of harm to patients. With the limited resources appropriated to the NYPORTS program, GNYHA believes that only the most serious adverse events should be included in this mandatory incident reporting program.

- Reporting timeframes need to be evaluated more carefully with input from the provider community. Based on the experience of the last several years, 30 days is not sufficient time for hospitals to complete the requisite reports (e.g., a thorough and credible root cause analysis), if they are to have an impact on preventing a recurrence of similar events in the future.

GNYHA will continue to vigorously advocate for meaningful revisions to the incident reporting law and call for the necessary resources for DOH to effectively manage and sustain the program. Later this month, DOH representatives from will meet with GNYHA member hospitals to hear their concerns. ■

budget deficit in the current State fiscal year, which ends March 31, 2011. Other state governments are counting on this relief as well. In response, GNYHA communicated with all members of the New York Congressional delegation, and is working with the American Hospital Association, 1199 SEIU, and others to ensure that the FMAP provision is revived. The U.S. Senate is expected to consider the bill when it returns from its recess this week, so GNYHA and other advocates for FMAP relief are focusing advocacy efforts on the Senate.

**Other Provisions** H.R. 4213 contains other provisions of importance to the health care community. For instance, it contains a very limited expansion of the 340b drug discount program. Specifically, it would allow high Medicare “disproportionate share hospitals” to access drug discounts for uninsured inpatients. Advocates for 340b program expansion expressed great disappointment in this provision, given the administrative complexity associated with trying to ensure that discounts are only accessed on behalf of uninsured inpatients. Non-compliance carries stiff penalties. The bill also contains a proposal to clarify that the Medicare “72-hour rule”—under which hospitals are required to “bundle” all related services provided to a patient within 72 hours of the patient’s admission—applies to all related services, and prohibits retroactive “unbundling” of services under current rules after the President signs H.R. 4213 into law. The Congressional Budget Office estimates this proposal would save the Medicare program more than \$4 billion over the next 10 years. GNYHA opposes inclusion of this proposal in H.R. 4213, especially since hospitals will suffer \$155 billion in funding reductions under the health reform law the President signed earlier this year. Finally, the bill would retroactively prevent the 21% Medicare reimbursement rate cut for physicians, scheduled to take effect May 31, and would provide relief for 19 months. It would provide a 2.2% payment update for the remainder of this year, and a 1% update for calendar year 2011, after which another fix would need to be enacted to again prevent a deep cut in physician reimbursement rates. ■

## Workforce Survey Shows Recession’s Impact

The 2010 Nursing and Allied Health Workforce Advocacy Survey, conducted by GNYHA in cooperation with the Healthcare Association of New York State (HANY), the Center for Health Workforce Studies, and regional allied associations around the State, showed a significant shift in the nursing shortage, presumably as a result of the international economic downturn, as well workforce reductions within hospitals and health systems over the past 18 months. In particular, the survey showed lower vacancy and turnover rates for nurses as com-

pared to years past—a trend that held across all regions of the State. According to survey results, the overall vacancy rate for hospitals in 2009 was 3.6% as compared to 7.1%, which had been the previous rate for approximately a decade. The observed turnover rate for 2009 was 7.1%, as compared to 10.1% in 2008.

Other key survey findings include:

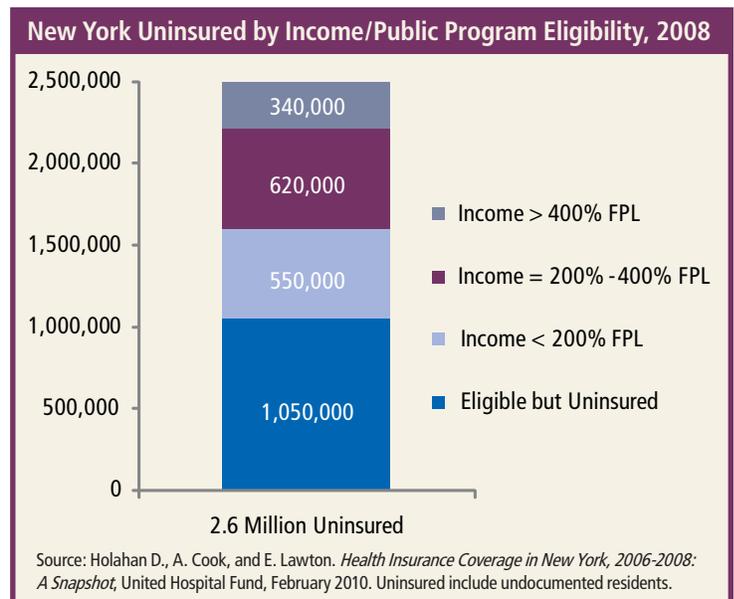
- Seventeen percent of respondents indicated that the economic downturn had resulted in professional staff layoffs;

*continued on page 4*

## Briefing Explores Reform’s Insurance Impact

As part of its ongoing series on the Patient Protection & Affordable Care Act (PPACA), GNYHA on June 3 hosted a briefing on insurance reform and coverage expansion. Judy Arnold, Deputy Director for Coverage and Enrollment with the New York State Department of Health, Peter Newell, Co-Director of the Health Insurance Project at the United Hospital Fund, and Harold Iselin of the law firm Greenberg Traurig, presented on PPACA provisions governing public program expansion and simplification, coverage subsidies and penalties, insurance exchange operation and function. They also discussed the impact of insurance reform on New

York insurers and the New York insurance market. Mr. Newell shared a chart (below) that breaks down New York’s uninsured population by income category to show the number of individuals potentially eligible for expanded Medicaid coverage or the subsidies available to those with income less than 400% FPL. ■



# CCLC Meeting Explores Long Term Care Reform

On June 2, the Continuing Care Leadership Coalition (CCLC), GNYHA's long term care affiliate, held its annual business meeting and program, Taking Charge of Our Future: New Opportunities for Long Term Care Transformation. After electing the 2010–11 Board of Directors, CCLC President Scott Amrhein provided an overview of the current challenges long term care providers in New York face, and presented on the long term care provisions on the Patient Protection and Affordable Care Act (PPACA). Specifically, Mr. Amrhein discussed the establishment of a new, voluntary long term care insurance program under the CLASS Act; the estimated financial impact on the long term care sector; and health care delivery system reform opportunities for long term care providers. Reform possibilities include demonstrations and opportunities to rebalance and encourage home- and community-based services,

improve chronic care management, promote quality improvement, and develop broad-based delivery system reforms.

Bruce Vladeck, PhD, Senior Advisor at Nexera, moderated a panel that explored the possibilities of long term care transformation under PPACA. Other speakers included Randall S. Brown, PhD, from Mathematica Policy Research; Candace Goehring, RN, MN, from Washington State Department of Social and Health Services Aging and Disability Services Administration; and Peter Kress from ACTS-Retirement Life Communities, Inc.

CCLC awarded the Continuing Care Leadership Award to Jennie Chin Hansen, RN, MSA, FAAN, who was Executive Director of On Lok, the original Program of All-Inclusive

Care for the Elderly that served nursing certifiable frail elders in the community and used a Medicare and Medicaid capitation payment structure. Ms. Hansen, now CEO of the American Geriatric Society, discussed the role of the geriatric team players and the importance person-centered care. Also during the meeting, CCLC announced the creation of the Burton Grebin, MD, Award,

which henceforth will be given at CCLC's Annual Meeting to an individual who demonstrates the compassion, dedication, and innovation that Dr. Grebin embodied throughout his career. For more information about the CCLC Annual Meeting, please contact Roxanne Tena-Nelson ([tena-nelson@cclcnyc.com](mailto:tena-nelson@cclcnyc.com)). ■



## Workforce *continued*

- Seventy-three percent have experienced a decrease in turnover rates;
- Forty-three percent reported that the overall supply of health workers had increased since the economic downturn; and
- Fifty-one percent indicated that there were fewer retirements.

Though these results show a decline in the overall nursing shortages faced by hospitals, GNYHA and others believe that this is temporary and influenced by the economic recession. As a result, these rates are expected to sharply increase over time. Factors that may result in this expected increase in vacancy rates include the increasing average age for nurses; projected nurse retirements once the economy has recovered; the low number of new nurses entering the workforce; the aging of the baby boomer generation, which puts increased demands on health care services; and the expected increase in demand on health care services in general due to many of the

visions in the recently passed health care reform law.

The survey's 118 responding hospitals included GNYHA members and represented each of New York State's regions. The survey covered a number of topics, including nurse and allied health professional vacancy and turnover rates; factors contributing to recruiting and retaining staff; nursing education issues; and nursing staff education levels.

GNYHA plans to distribute aggregate survey results to member hospitals in coming weeks. GNYHA, with guidance from its Nurse Executive Council, which comprises nursing leadership from member hospitals, will continue to work to effectively address issues that impact nursing recruitment, retention, and educational development, as well as using quality improvement initiatives and workforce advocacy to improve the overall quality of nursing care provided in our hospitals. Please contact Zeynep Sumer ([zsumer@gnyha.org](mailto:zsumer@gnyha.org)) or Lorraine Ryan ([ryan@gnyha.org](mailto:ryan@gnyha.org)) with any questions about the survey. ■

