



July 12, 2010

# Skyline news

Reporting on New York's Health Care News

## NYS Budget Remains in Flux After Vetoes

Despite passing nearly all of the State budget bills for the fiscal year, the New York State Legislature has reached an impasse over State budget negotiations. On July 1, the State Assembly adjourned for the 2010 legislative session after passing its version of the State's revenue plan, which, according to an Assembly press release, yields \$869 million in revenue increases to help close the State's \$9.2 billion budget gap. Significant provisions include temporarily suspending the sales tax on clothing and footwear under \$110 from October 1, 2010, through March 31, 2011, which could yield \$330 million in fiscal year 2010–11, and reducing the income tax deduction for charitable contributions from 50% to 25% for New Yorkers with an adjusted gross

income above \$10 million. That reduction could yield another \$100 million in fiscal year 2010–11 and \$135 million in fiscal year 2011–12. GNYHA, along with a coalition of charitable agencies and not-for-profit institutions, opposes the limitation on the charitable deduction. Notably, the bill does not include a tax on sugared beverages, which GNYHA supports. The Senate Democratic majority failed to secure votes from all of the majority conference members, and thus did not vote on a revenue plan before leaving Albany July 1. Two major provisions the Governor and Senate Democrats would like to include in the final State budget are allowing SUNY and CUNY to set tuition rates without legislative approval (which the Assembly strongly opposes) and, more signifi-

cantly for GNYHA members, creating a contingency plan if New York doesn't receive \$1.06 billion in enhanced Federal Medicaid matching rate (FMAP) funds for the current fiscal year. The Assembly Speaker has said the FMAP

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## Crowley Secures Opposition to Cut

Representatives Joe Crowley (D-NY) and Pete Sessions (R-TX) gained the support of 240 of their House of Representatives colleagues to sign a letter to the Centers for Medicare & Medicaid Services (CMS) urging the Agency to significantly change the coding and documentation "offset" proposal in the fiscal year 2011 Medicare inpatient prospective payment system (IPPS) proposed rule. The proposed rule includes a 2.9% cut to "offset" or "re-coup" half of the payments made in fiscal years 2008 and 2009 that CMS claims were due to documentation and coding changes under the new MS-DRG payment system that CMS claims did not reflect real changes in case mix.

"The coding offset assumes that hospital payments have increased solely due to changes

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## Obama Appoints Berwick to CMS

Last week, President Obama bypassed the Senate confirmation process and appointed Dr. Donald Berwick to be the Administrator of the Centers for Medicare & Medicaid Services (CMS). He also exercised his "recess appointment" authority to appoint two individuals to non-health related positions.

"It's unfortunate that at a time when our nation is facing enormous challenges, many in Congress have decided to delay critical nominations for political purposes," President Obama said. "These recess appointments will

allow three extremely qualified candidates to get to work on behalf of the American people right away. With more than 180 nominees still pending before the Senate, it's my hope that my colleagues in Congress will agree to put politics aside and move forward on these vitally important positions."

The Senate Republican leadership had vowed to use Dr. Berwick's confirmation process to re-debate the health care reform bill and to portray Dr. Berwick as a proponent of health care rationing. A "recess appointment"

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# NYS Submits High-Risk Pool Application to HHS

The New York State Department of Insurance (DOI) has submitted an application to the U.S. Department of Health and Human Services (HHS) to develop a program to provide more affordable coverage for uninsured individuals who have pre-existing conditions. The program is being established under the Affordable Care Act, which makes \$5 billion available over the next three and a half years to reduce the cost of coverage for these individuals through the creation of temporary high-risk pools. New York is expected to receive \$297 million of the

available funds. While the new law gives each state the option to have HHS implement and operate the program, New York State believed it important to design its own program to ensure conformity with the consumer protections afforded by New York's community-rated, guaranteed-issue insurance marketplace.

New York has requested that Group Health Incorporated (GHI), a subsidiary of Emblem Health, serve as the designated not-for-profit contractor to operate the qualified high-risk pool on behalf of the State. GHI is the only not-for-profit company authorized to oper-

ate statewide and will administer the high-risk pool under a contract with HHS while DOI provides contractor oversight. GHI will offer the program as an Exclusive Provider Organization (EPO) product but will provide coverage for out-of-network services where an in-network provider is not available. Covered benefits include, but are not limited to, primary and specialty care, hospital care, and prescription drugs. Hospital co-payments are expected to be \$500 for in-patient services and \$100 for emergency department services. Premiums are expected to fall below \$600 a month, significantly below current premiums in the non-group market. HHS must approve the State's proposal, but the State anticipates it will enroll about 15,000 New Yorkers in the plan and hopes to begin accepting applications by August 15 with coverage available by November 1, 2010. The program will last until January 1, 2014, when the Affordable Care Act insurance reforms, including community rating, subsidized coverage through insurance exchanges, and elimination of pre-existing condition exclusions, are fully implemented. ■

## GNYHA Members Prepare for Explosive Events

As part of a larger effort to enhance emergency preparedness in the region, GNYHA held a briefing June 28 on preparing for and responding to explosive events. The briefing was designed to focus on key aspects of integrated planning, communications, and coordinating response efforts potentially affecting the health care sector.

Lieutenant Kevin Yorke with the New York Police Department's Intelligence Division described the planning and execution of the attacks in Mumbai, India, in November 2008. The attacks included traps for first responders and commandeering official vehicles, which caused considerable confusion and security issues. Lt. Yorke also reviewed lessons law enforcement and others learned from the attacks.

Generoso Roca, Deputy Director of the New York State Department of Health (DOH) Office of Health Emergency Preparedness, reviewed the Madrid train bombings, which killed 191 and injured approximately 2,000. He also addressed DOH efforts to facilitate hospital preparedness.

Robert B. Bristow, M.D., Medical Director of Emergency Management at NewYork-Presbyterian Hospital, discussed the injuries experienced as a result of many of the most

significant explosive events occurring in the last decade and approaches for providing care at the scene of such events. In Israel, for example, responders "scoop and run" with injured patients, partly due to concerns about secondary attacks aimed at first responders. Dr. Bristow's slide presentation will be available in the Emergency Preparedness section of GNYHA's Web site. Moving forward, GNYHA is concentrating on enhancing integrated emergency preparedness planning in the region, working with its members' emergency managers and clinicians, and planning and response agencies. GNYHA will build upon the significant efforts that have been devoted to emergency preparedness already and will incorporate the lessons learned from recent events, including failed attacks and plans. ■



## Symposium Calls for Posters

Call for Posters has been announced for individuals who wish to apply to have their work displayed at the GNYHA Foundation and United Hospital Fund's 21st *Annual Symposium on Health Care Services in New York: Research and Practice*, to be held November, 3, 2010. The poster session allows for one-on-one discussion between participants on research projects and innovative health services programs with a strong evaluation component. Submissions must be received by July 30, 2010. For more information and to access the application, please visit [www.uhfnyc.org](http://www.uhfnyc.org) and click the "Events" tab. For more information, contact Tim Johnson ([tjohnson@gnyha.org](mailto:tjohnson@gnyha.org)) at GNYHA. ■

# Area Lawmakers Criticize MedPAC Plan

On June 23 at a hearing of the U.S. House of Representatives Energy & Commerce Subcommittee on Health, Representatives from New York and New Jersey expressed serious concern about a new Medicare Payment Advisory Commission (MedPAC) proposal that would severely cut Medicare indirect medical education (IME) payments. The hearing, chaired by Subcommittee Chairman Frank Pallone (D-NJ), was also attended by New York Democrats Anthony Weiner and Eliot Engel, all of whom expressed strong reservations about the proposal to MedPAC Chairman Glenn Hackbarth.

Under the MedPAC proposal, contained in the group's June 2010 report to Congress, *Aligning Incentives in Medicare*, IME payments would be cut by more than half, or approximately \$3.5 billion. This would be achieved by reducing the IME add-on to what MedPAC believes is the "empirically justified" level of payment. The \$3.5 billion in savings would be used to create an incentive payment program for teaching hospitals that meet educational standards set by the

Secretary of Health and Human Services. The standards would be designed to further the goals of health care reform. The IME cut and the incentive program would begin in 2013.

GNYHA, strongly opposed to the proposal, spoke with Reps. Pallone, Engel, and Weiner prior to the hearing, and all three did a superb job defending their teaching hospitals. Chairman Pallone expressed strong concerns about the impact of such a proposal on teaching hospitals in New Jersey that are already struggling financially. Rep. Weiner said that he has always been concerned about an anti-urban bias at MedPAC, and that this proposal confirms that. "You don't get it when it comes

to teaching hospitals," Rep. Weiner said.

Rep. Engel associated himself with Rep. Weiner's remarks, and said an IME cut on top of the disproportionate share hospital (DSH) funding cuts that were just passed as part of health reform would be "piling on" teaching hospitals. He said he opposes the proposal because it would put as much as \$450 million in IME payments for New York City hospitals "at risk." GNYHA is extremely grateful to our members of Congress for their responsiveness on this issue and their support of teaching hospitals. To read MedPAC's full June 2010 report to Congress and Chairman Hackbarth's testimony, please go to [www.medpac.gov](http://www.medpac.gov). ■

## AROUND

On July 6, veteran hospital administrator **Jeffrey K. Frerichs** assumed the role of President and CEO of St. Mary's Healthcare System for Children. Mr. Frerichs previously held positions as President of Cabrini Medical Center and Vice President of St. Luke's-Roosevelt Hospital Center. He also served on the St. Mary's Board for eight years, the last two as Chairman. Mr. Frerichs is a past chair of the Greater New York Hospital Association Board of Governors. He holds an M.P.A. in Health Care Administration from New York University.

# Conference Focuses on Readmissions

On June 22, GNYHA and the United Hospital Fund (UHF) held a conference, *Improving Care Transitions to Reduce Preventable Readmissions*, as part of the GNYHA Series on Health Reform Implementation. The conference profiled patient-centered care coordination models aimed at reducing preventable readmissions that have been successfully implemented locally and nationally. Presentations and other materials from the conference can be found at [www.gnyha.org/readmissions](http://www.gnyha.org/readmissions).

Keynote speaker Eric Coleman, M.D., M.P.H., Professor of Medicine within the Divisions of Health Care Policy and Research and Geriatric Medicine and Director of the Care Transitions Program at the University of Colorado-Denver, discussed care transi-

tions and patient "hand-offs." He addressed enhancing the role of patients and caregivers in improving the quality of their care transitions across acute and post-acute settings; measuring quality of care transitions from the perspective of patients and caregivers; implementing system-level quality improvement interventions to improve these processes; and using health information technology to promote safe and effective care transitions.

Dr. Coleman also led a panel that talked about the three high-priority areas for GNYHA members that pose the greatest challenges in reducing preventable readmissions: risk screening and assessment; educating patients and families on managing medication; and connecting to the

next provider of care. During the panel, representatives from GNYHA and CCLC facilities discussed initiatives they have successfully implemented that target these challenges. UHF's Transitions in Care Quality Improvement Collaborative, or TC-QuIC, was profiled during the panel as an effective program to strengthen and thoughtfully involve family caregivers in the transitions in care process. The panel offered GNYHA guidance on specific areas to target its quality improvement activities to reduce preventable readmissions and to improve transitions in care across the continuum of care. For more information, please contact Lorraine Ryan ([ryan@gnyha.org](mailto:ryan@gnyha.org)), Zeynep Sumer ([zsumer@gnyha.org](mailto:zsumer@gnyha.org)), or Kelly Donohue ([donohue@gnyha.org](mailto:donohue@gnyha.org)). ■

## NYS Budget *continued*

issue does not need to be addressed at this time. The Governor's original budget proposal assumed this additional Medicaid revenue, but at the Federal level, Congress has struggled to pass a bill with Medicaid relief. It is likely that the Senate will not return to Albany to vote on the revenue bill until agreements on FMAP and SUNY are reached.

On June 25, the Senate and Assembly amended the Governor's original budget bills, including the health care and education bills, to reflect their own priorities. Both houses passed these bills June 28, effectively averting a government shutdown. This move countered the Governor's earlier success in enacting his

budget through weekly extenders. Fortunately, neither the Governor's last extender nor the Legislature's health care bill includes provider tax increases, assessments, or new Medicaid cuts. However, the Legislature's education bills included a more than \$400 million restoration of the Governor's proposed cuts to school aid in the current fiscal year, among other spending increases. As a result, last Wednesday the Governor released more than 6,000 line-item vetoes to the Legislature's appropriations bills. The health, mental health, and substance abuse vetoes were all "re-appropriations," or appropriations originating in past budget years that have not been spent in whole or in part, so were "re-appropriated" for the 2010-11 State

budget year. There were a number of hospital- and nursing home-specific re-appropriations on the veto list.

The Legislature is not expected to be able to override the Governor's vetoes, since the Senate Republicans have indicated they don't intend to vote to override. The only hope the Legislature appears to have to restore some of the vetoed funds—most notably, more than \$400 million in vetoed school aid funding—is to negotiate a larger agreement that may include an FMAP contingency fund, SUNY/CUNY tuition flexibility, and/or a local property tax cap. GNYHA will continue to work to ensure the health care sector does not become the source for restorations in other sectors. ■

## Crowley *continued*

in coding, or classification of patients, as opposed to hospitals' treatment of more complex and more severely ill patients," the letter states. "We believe that this assertion fails to take into consideration that hospital patients are indeed sicker." The offset is expected to reduce payments to hospitals in New York State by \$253 million, and nationwide by \$3.7 billion. GNYHA worked with the New York delegation to gain support for the letter. In the end, 23 of the 29 New York Congressional delegation members signed the letter, along with 12 of the 13 New Jersey members, 16 of the 19 Pennsylvania members, all five Connecticut members, and both members from Rhode Island. We are extremely grateful for Rep. Crowley's leadership on this issue. The final IPPS rule is expected to be published by early August. **FMAP** Congress returns to Washington this week from a week-long Independence Day recess to once again grapple with how to extend Federal Medicaid matching rate, or "FMAP" relief to states beyond the expiration of the current enhanced Federal Medicaid matching rates on December 31, 2010. Before the recess, the Senate repeatedly tried to get the 60 votes necessary to cut off debate and move to final passage on what's known as the "jobs bill," which contained an FMAP extension, but failed to garner the Republican support necessary.

During the recess, governors, state legislators, hospital associations, unions, and other advocacy groups lobbied hard for the legislation. GNYHA will participate with other hospital associations in a lobby day on this issue on July 15 in Washington, D.C. New York State is counting on \$1.06 billion in the current fiscal year from the promised FMAP extension. (See story, page 1) GNYHA hopes to see final action on this issue by the next Congressional recess, which begins the first week of August.

**Release of HIT Regulation Imminent** The hospital community is bracing for the release of a Federal regulation governing the requirements for hospitals to receive Medicare and Medicaid health information technology (HIT) bonus and incentive payments under the Federal stimulus bill, the American Recovery and Reinvestment Act (ARRA). The regulation will define what it means to be a "meaningful user" of HIT. Only hospitals that are "meaningful users" will be eligible for bonus and incentive funds. In the meantime, GNYHA participated in two meetings in the last two weeks with Obama Administration officials on the regulation. The meetings focused in particular on the need to treat hospitals within multi-hospital systems as individual hospitals for the purposes of allocating HIT incentive payments. The regulation is expected to be released this week. ■

## GNYHA MEMBER BRIEFING

### Overpayment Rules Briefing

**Date:** Monday, July 26, 2010

**Time:** 2:00 p.m.—4:00 p.m.

**Location:** GNYHA Conference Center

Section 6402 of the Affordable Care Act requires providers to return an overpayment appropriately the later of 60 days after the overpayment was identified or by the date any corresponding cost report is due, if applicable. NYS OMIG has announced that it will begin enforcing this requirement on January 1, 2011, and we anticipate Federal enforcement activity, too. This briefing is intended to assist members when identifying overpayments and making any related self-disclosures or other responsive actions. To register, contact Laurie Sangirardi ([sangirardi@gnyha.org](mailto:sangirardi@gnyha.org)). ■

## Berwick *continued*

serves only through the calendar year following the appointment, meaning Dr. Berwick would need to be re-appointed and confirmed by the Senate to serve beyond 2011. Due to Dr. Berwick's strong commitment to improving health care quality as President and CEO of the Institute for Healthcare Improvement (IHI), GNYHA had urged support for Dr. Berwick's confirmation in letters to Congressional leadership. ■