



July 26, 2010

Skyline news

Reporting on New York's Health Care News

Congress Tackles HIT Final Rules

Last week, the U.S. House Ways & Means Health Subcommittee held a hearing on the final regulations governing the health information technology (HIT) incentive payments contained in the economic stimulus bill. Tomorrow, the House Energy & Commerce Health Subcommittee will follow suit. Also last week, Senator Charles Schumer; Reps. Zack Space (D-OH) and Eliot Engel (D-NY) of Energy & Commerce; and House Ways & Means Chairman Sander Levin (D-MI), Health Subcommittee Chairman Pete Stark (D-CA), and New York Democratic Congressmen Charles Rangel, Brian Higgins, and Joseph Crowley discussed potential legislation to correct some of the flaws they have iden-

tified in the final regulations. Corrections desired by hospitals involve hospitals within multi-hospital systems that are ineligible for incentive payments under the final rule and address concerns that HIT certification requirements will be too cumbersome to allow incentive payments to flow to hospitals in 2011, as intended. Earlier in the year, Reps. Engel and Space spearheaded a letter signed by a majority of House members urging changes to the proposed regulations. Reps. Levin, Stark, and Rangel wrote a letter to the Obama Administration on the multi-campus issue in March, and organized a meeting of House Ways & Means members with Obama Administration officials last month.

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More HEAL Funds Available

The New York State Department of Health and the Dormitory Authority of the State of New York (DASNY) recently released three requests for grant applications for \$300 million in funding under the Healthcare Efficiency and Affordability Law for New Yorkers (HEAL NY) program.

Phase 17: Expanding Care Coordination Through HIT

The goal of Phase 17 is to support projects that improve care coordination and management through a medical home using health information technology. Eligible costs include adoption of electronic health records,

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UnitedHealthcare Shares 24-Hour Policy Results

UnitedHealthcare (UHC) met with GNYHA members July 13 to share data resulting from the insurer's 24-hour admission notification protocol. UHC requires 24-hour notification of all inpatient admissions, but imposes reimbursement reductions only if notification is received more than 72 hours after admission.

UHC believes that prompt admission notification enables its staff to begin concurrent review and discharge planning that can help shorten length of stay and reduce

hospital readmissions. However, in comparing length of stay in markets where reimbursement reductions were imposed after 24 hours to those where reductions were imposed after 72 hours, UHC found only marginal differences. Both markets showed reductions in length of stay as a result of the notification requirement. For both onsite and telephonically managed cases, length of stay was reduced by 7.5% and 3.4%, respectively, where reimbursement reductions were imposed after 72 hours. Where reimbursement reductions were imposed

after 24 hours, the improvement was slight, with a 7.6% and a 3.5% reduction in length of stay.

UHC asserts that along with a longer average hospital stay, the likelihood of readmission within 30 days for clinically managed medical hospitalizations without timely notification is 12% higher than for comparable admissions notified within 24 hours. UHC expressed interest in working with hospitals on initiatives to reduce preventable readmissions and plans to begin such discussions in the coming months. ■

GNYHA Attends FHA Financing Meeting

GNYHA recently participated in the annual Committee on Healthcare Financing meeting, which provides a forum for the leadership of the Federal Housing Administration's (FHA's) Office of Healthcare Programs to update health care providers and those who handle their financing on developments within the FHA's health care programs. For decades, the FHA's hospital and nursing home mortgage insurance programs, which are part of the U.S. Department of Housing and Urban Development (HUD), have provided health care facilities with access to much-needed capital for new construction and renovations. The insurance is valuable because it permits non-rated or low-rated hospitals to achieve affordable interest rates on their debt. Historically, the FHA insurance programs had been used primarily by health care facilities that had difficulty obtaining credit enhancement or access to capital through other means. Hospitals in New York State had represented a significant portion of the FHA program's portfolio due to this market's dire financial condition. However, as the FHA has attempted to streamline and improve its application process, as well as minimize the program's ongoing approval requirements, it has attracted a more diverse portfolio of credits.

At the meeting, HUD Assistant Secretary/FHA Commissioner David H. Stevens highlighted some of the difficulties that the FHA's single family and multi-family housing programs, as well as other housing mortgage agencies, have faced in recent years, due in part to the economic downturn. Although the Assistant Secretary recognizes that the health care mortgage insurance programs have not

faced similar problems and generate revenues for the agency, he said the housing side's situation has put a general strain on the FHA's capital reserves and required the allocation of personnel to areas at the most risk. As a result, the health care programs are currently understaffed and the agency is pursuing increased funding to bring on more staff and cross-train staff. In order to improve the financial integrity of the FHA's programs overall, Assistant Secretary Stevens has also added the position of chief risk officer. Although the position is intended to have a positive impact on the agency and its reserves, the involvement of the new chief risk officer has added to the processing time for health care applications, at least in the short term. Responding to GNYHA's comments regarding the importance of FHA mortgage insurance to health care providers, particularly given the tough economic times, Assistant Secretary Stevens stated his strong commitment to these programs and recognized the value they bring to both local communities and the Federal government.

Hospital Portfolio Overview As an indication of the importance of the Office of Healthcare Programs within HUD, Roger Miller, long-time head of the health care programs, was promoted to Deputy Assistant Secretary for the Office of Healthcare Programs. He and his staff gave an overview of the hospital portfolio, which consists of 97 insured loans with a total of \$8.3 billion outstanding. Of the 77 hospitals participating, nine are considered "troubled," representing only \$309 million in outstanding loans, or 3.7% of the hospital portfolio. The strength of the program's underwriting and portfolio oversight is evidenced by the fact

that there have been only four insurance claims made over the last decade, with the claim rate net of recoveries over the entire life of the program being a very low 0.64%. ■

SNF, Home Health Proposed Rules Released

On July 16, the Centers for Medicare & Medicaid Services (CMS) released proposed payment rules that will significantly impact skilled nursing facility (SNF) and home health payment levels under Medicare in 2011. Comments on the rules are due September 14, 2010.

Skilled Nursing Facilities Under the skilled nursing facility proposed rule, SNFs would receive a 1.7% market basket increase in 2011. This increase would have been 2.3% in 2011, but CMS is calling for a 0.6% negative adjustment to offset a market basket "forecast error" in 2009. The net nationwide gain in Medicare payments to skilled nursing facilities will be \$542 million in fiscal year 2011.

Home Health Agencies Under the home health agency proposed rule, agencies would receive a 1.4% market basket update and an increase related to a wage index update in 2011. These increases would be offset by reductions to the home health payment rates intended by CMS to account for increases in aggregate case-mix that the agency asserts are not related to underlying changes in patients' health status, and by other provisions mandated by the Patient Protection and Affordable Care Act. CMS estimates that the net effect of the projected increases and the provisions that would decrease payment levels would be a nationwide reduction in payments for home health agencies under Medicare of approximately \$900 million. ■

SECTION 242 PORTFOLIO OVERVIEW

Total Loans Outstanding	97
Total Dollars Outstanding	\$8.3B
Average Loan Size	\$83M
Hospitals in Portfolio	77
Hospitals Troubled	9
Unpaid Balance of Troubled Hospitals (%)	\$309M (3.7%)
Claims 2000–2010	4
Claim Rate Net of Recoveries (Life of Program)	0.64%

Source: Office of Healthcare Programs, Federal Housing Administration, U.S. Department of Housing and Urban Development.

Members Share Colors of Safety Lessons

On July 13, GNYHA and its long term care affiliate the Continuing Care Leadership Coalition (CCLC) held a briefing updating members on the *Colors of Safety Across the Continuum of Care* initiative, a voluntary program launched in 2007 to standardize the color-coding of certain alert conditions in acute and long term care settings. *Colors of Safety* requires the standard-

ization for three alert conditions (see chart). Based on participant response at the briefing, the program may be expanded to include additional alert conditions. Members who did not participate in the initial program heard about benefits and successes achieved by participating hospitals and long term care organizations. John Morley, M.D., F.A.C.P., Medical Director of the Office of

Health Systems Management for the New York State Department of Health, confirmed the agency's continuing support for this initiative.

The briefing featured three panels of GNYHA and CCLC members that focused on successes and lessons learned from *Colors of Safety* programs, effective communication and partnerships between acute and long term care settings, and a "how to" for implementing new programs. See presentations and other materials at: <http://gnyha.org/4873/Default.aspx>.

At the briefing, GNYHA and CCLC presented a tool kit to help members implement the program. The tool kit is also available to members at the Web page above.

For more information on the initiative, please contact Alissa D'Amelio (adamelio@gnyha.org) or Kelly Donohue (donohue@gnyha.org) at GNYHA, or Roxanne Tena-Nelson (tena-nelson@cclcnyc.org) at CCLC. ■

Alert Condition	Color
Do Not Resuscitate (DNR)	Purple
Allergies	Red
Fall Risk	Yellow

HIT Final Rules *continued*

The Regulations The final regulations on the Electronic Health Record Incentive Program, issued on July 13, define the "meaningful use" criteria that hospitals and physicians must meet in order to receive incentive funds through the Medicare and Medicaid programs starting in 2011 and to avoid payment penalties beginning in 2015. In general, hospitals and "eligible professionals" must be "meaningful users" of certified EHRs in order to receive incentive payments and avoid payment penalties in later years. Providers have greater flexibility under the final rules than they were granted under the proposed rules; however, they will still be required to meet a core set of 14 required objectives and five out of 10 additional objectives. In addition, hospitals must collect, calculate, and report on 15 clinical quality measures, down from 35 in the proposed rule. While the Obama Administration anticipates that certified electronic health record (EHR) technology will be available for purchase or upgrade by hospitals beginning this fall, there is considerable concern within the provider community that the certifica-

tion process may not be sufficiently operable to enable providers to gain certification in time to receive incentive payments when they are available beginning in May 2011. In addition, the regulations define an eligible hospital as a hospital with a Medicare Certification Number, which would deny many hospitals in multi-hospital systems—where hospitals often share one Certification Number—incentive payments under the program.

Hospital Concerns The hospital community would like Congress to legislate to correct two problems with the regulations. First, hospitals would like a bill that would make clear that a "remote location" hospital within a multi-hospital system is eligible for receiving HIT incentive payments, thus solving the problem created by the regulation related to hospitals that share Medicare Certification Numbers. Second, hospitals would like a provision that would exempt from EHR certification requirements EHRs that enable a provider to achieve meaningful use in the first two years. GNYHA is currently educating Congressional members on these two important issues.

The Hearings At the Ways & Means Health Subcommittee hearing last week, Dr. David Blumenthal, National Coordinator for Health Information Technology, and Tony Trenkle, Director of the Office of E-Health Standards and Services within the Centers for Medicare & Medicaid Services, explained the final rules. Subcommittee Chairman Stark made clear that he supports the thrust of the final rules. "The whole purpose of the [HIT incentive program] is to push providers to do more with health IT and do it faster, but it is also important to take a balanced approach so that in our zeal to get to our destination, we don't leave providers on the sidelines," Chairman Stark said, adding "In my opinion, HHS took a responsible position in the final rule. The standards are aggressive, but set realistic goals." However, several Ways & Means members expressed concern about the multi-campus issue. The Administration witnesses stated that they did not receive enough statutory guidance to allow them to define hospitals other than entities with a Medicare Certification Number. ■

clinical information systems, e-prescribing applications, and other items that will support coordinated care. Up to \$120 million will be awarded under this initiative. Projects may be funded up to \$10 million (for “limited” projects, wherein the project targets at least one mental health diagnosis) or \$20 million (for “expanded” projects, wherein the project targets one or more chronic disease diagnosis and includes mental health, long term care, and home health providers). Applications are due August 9, 2010.

Phase 18: Mental Health Initiatives

The goal of Phase 18 which is being administered in conjunction with the New York State Office of Mental Health, is to support

renovation, expansion of hours for ambulatory services, removal of beds from service, and other related initiatives in the area of behavioral health services. Eligible costs include construction, renovation, facility upgrades, and other related items. Up to \$30 million will be awarded under this initiative. The State has targeted \$6 million for small projects, or those with funding requests of \$1 million or less, and \$24 million is targeted to large projects, or those with funding requests between \$1 million and \$8 million. Applications are due August 10, 2010.

Phase 20: Alternative Long Term Care Initiatives, Phase 2

The goal of Phase 20 is to support the de-

velopment of supportive housing alternatives to residential health care facility (RHCF) beds, appropriate downsizing of RHCF beds, and addressing needed access to RHCF facilities. Eligible costs include acquisition, construction, equipment, and information technology costs, and costs associated with closing or downsizing buildings to take beds out of service. Up to \$150 million will be awarded under this initiative, and projects may be funded up to \$35 million. Applications are due August 25, 2010.

Phase 19 has been designated for special discretionary awards. Contact Tim Johnson at GNYHA with questions. ■

LEGISLATIVE DIGEST

Below is an overview of health care–related bills that have passed both the New York State Senate and Assembly:

A.3787/S.1990: sponsored by Assemblywoman Linda Rosenthal (D-Manhattan) and Senator Kemp Hannon (R-Garden City), would change the witness requirement for the health care proxy from two adult witnesses to one adult witness. The bill includes an exception for persons who reside in mental health facilities, for which two adult witnesses would be required. GNYHA supports this bill. • **A.2358/S.6103:** sponsored by Assemblyman Richard Gottfried (D-Manhattan) and Senator Kevin Parker (D-Brooklyn), would authorize the New York State Commissioner of Health to provide grants to not-for-profit organizations, such as hospitals, to help pay for the cost of conducting a local blood donation drive. GNYHA supports this bill. • **A.10448/S.7649:** sponsored by Assemblyman Tim Gordon (I-Bethlehem) and Senator Shirley Huntley (D-Queens), seeks to postpone the date by which all requests for written documents submitted by a parent, guardian, or other qualified person must be produced under Jonathan’s Law to December 31, 2012. GNYHA supports the intent of the legislation but opposes this bill as it creates serious concerns related to the precedent of extending the time permitted to request what was otherwise information protected from disclosure. GNYHA has asked the Governor to veto this bill. • **A.11568/S.8378:** sponsored by Assembly Speaker Sheldon Silver (D-Manhattan) and Senator Eric Schneiderman (D-Manhattan), would amplify the existing provisions of the New York State False Claims Act, requiring hospitals to defend against numerous and often meritless law suits. GNYHA and its members work diligently to enhance existing compliance programs and prevent fraudulent or inappropriate actions in our institutions, but we oppose this bill because it diverts attention and resources away from patients and into litigation and defensive operations. GNYHA has asked the Governor to veto this bill. • **A.9869-C/S.7441-C:** sponsored by Assembly Members Grace Meng (D-Queens) and Jose Peralta (D-Queens), would require hospitals and birthing centers to distribute to each maternity patient and, upon request, to the general public, a leaflet that would contain information detailing how parents or guardians of infants and children can subscribe to the U. S. Consumer Product Safety Commission to receive product recall and safety news. While GNYHA supports the distribution of such information, hospitals should not be the only distribution point. The proposed leaflet would contain information that should be available to families in the many locations frequented by parents and guardians, including child care settings, community-based organizations, and stores where many products are purchased. Furthermore, the bill requires that the leaflet is translated into only six languages, which is not sufficient to meet the broad array of New York State residents’ language needs. GNYHA has asked the Governor to veto this bill.

Bills Enacted by the Governor

Chapter 132 of the Laws of 2010: extends the current licensing exemption for social workers and other licensed mental health professionals, which had expired June 1, until July 1, 2013. During this period, certain State agencies must submit a report to the State Commissioner of Education that includes an action plan on how the agencies will achieve licensure compliance, recommendations on alternative pathways to achieving compliance, and recommendations on any amendments to law, rule, or regulation necessary to achieve compliance with professional licensing requirements. GNYHA supports this new law. • **Chapter 161 of the Laws of 2010:** allows individuals to register online if they wish to make an anatomical gift (organs and tissues); prior to enactment of this law, registrants had to mail a completed consent form. GNYHA supports this new law. • **Chapter 139 of the Laws of 2010:** extends the sunset date for New York’s court-ordered Assisted Outpatient Treatment (AOT) program, also known as Kendra’s Law, from June 30, 2010, to June 30, 2015. GNYHA supports the extension of Kendra’s Law.

Bill Vetoed by the Governor

A.1729/S.5002: introduced by Assemblyman Gottfried and Senator Thomas Duane (D-Manhattan), would have made it an improper practice for the governing body of a hospital to deny staff membership or professional privileges to psychologists based solely on the practitioner’s category of licensure. GNYHA opposed this bill.