GNYHA FALL 2022 FEDERAL PRIORITIES

PRESIDENT, KENNETH E. RASKE • 555 WEST 57TH STREET, NEW YORK, NY 10019 • T (212) 246-7100 • F (212) 262-6350 • WWW.GNYHA.ORG

Hospitals, nursing homes, and other health care providers continue to face numerous post-COVID-19 financial pressures. Revenue growth has not kept pace with increased costs, and hospitals experienced negative year-to-date operating margins and particularly steep year-over-year margin declines during the first three months of 2022.[1] Making matters worse, inflation and labor shortages will continue to increase total costs for the rest of the year.[2] The immense toll that health care workers have endured from caring for patients during the COVID-19 pandemic has led to burnout and other issues that have exacerbated labor shortages.

Congress's generous support for providers during the COVID-19 public health emergency (PHE) has not fully blunted their immense expense and revenue pressures. **GNYHA therefore requests that Congress prevent automatically scheduled cuts to Medicare providers, bolster graduate medical education (GME) and other physician workforce expansions, extend certain flexibilities enacted during the COVID-19 PHE, improve the Medicare Advantage prior authorization process, support our essential safety net hospitals, and expedite the distribution of Federal Emergency Management Agency (FEMA) funding.**

HEALTH CARE PROVIDER FINANCIAL RELIEF

Delay the 4% Statutory PAYGO cut

The Statutory PAYGO Act of 2010 requires that mandatory spending and revenue legislation not increase the Federal deficit over a five- or 10-year period. If such legislation is enacted without offsets, Medicare benefit payments and Medicare program integrity spending would be reduced by as much as 4%. Largely due to the impact of the American Rescue Plan Act of 2021, significant PAYGO cuts were expected to be triggered in early 2022. However, the Protecting Medicare and American Farmers from Sequester Cuts Act deferred the PAYGO cuts to 2023. In the past, Congress has always waived the reductions and prevented a PAYGO "sequestration" cut. Absent Congressional action before the end of 2022, the Statutory PAYGO cut could result in a nearly $575 million payment reduction to New York's hospitals (based on fee-for-service Medicare in calendar year 2022).[3] *Congress should prevent a 4% Statutory PAYGO cut from taking effect in 2023.*

GME AND PHYSICIAN WORKFORCE EXPANSIONS

Pass the Resident Physician Shortage Reduction Act of 2021 and establish the Pathway to Practice Training Programs

The United States faces a shortage of up to 124,000 physicians by 2034, with projected shortages in both primary care and specialty physicians.[4] A large portion of the physician workforce is nearing retirement age, and growing concerns about physician burnout, documented in the literature and increased by COVID-19, suggest physicians will be more likely to accelerate rather than delay retirement. To meet the needs of our diverse and growing nation, ensure health care access

1. "National Hospital Flash Report." Kaufman Hall, April 2022.
2. "National Hospital Flash Report." Kaufman Hall, July 2022.
3. American Hospital Association, "AHA Urges Congress to Provide Relief from Forthcoming Medicare Sequester Cuts," available at https://www.aha.org/system/files/media/file/2021/10/aha-urges-congress-to-provide-relief-from-forthcoming-medicare-sequester-cuts-letter-10-6-21.pdf.
4. "The Complexities of Physician Supply and Demand: Projections From 2019 to 2034." Association of American Medical Colleges, July 2021.

and delivery, improve workforce diversity and health equity, and prepare for the next public health crisis, we must increase Federal support for GME and physician training.

The bipartisan Resident Physician Shortage Reduction Act of 2021 (S.834/H.R.2256) would gradually raise the number of Medicare GME positions by 2,000 per year for seven years, for a total of 14,000 new positions. The popular bill has garnered support from over 200 House members and more than a third of senators from both sides of the aisle. In addition, the House Ways and Means Committee developed the Pathway to Practice Training Programs—included in the House-passed Build Back Better Act—which would award medical school scholarships to support educating a diverse, culturally competent physician workforce and provide 1,000 Medicare GME positions to hospitals serving rural and underserved areas. *Congress should pass the Resident Physician Shortage Reduction Act of 2021 and establish the Pathway to Practice Training Programs.*

COVID-19 PHE WAIVERS AND FLEXIBILITIES

Extend flexibilities for telehealth and the Acute Hospital Care at Home program

The COVID-19 PHE declaration continues to offer hospitals and other health care providers critical waivers and other flexibilities to minimize disruptions and improve health care access. Waivers and flexibilities for telehealth and the Acute Hospital Care at Home program have led to improvements in care and should be made permanent or extended beyond the duration of the PHE.

The Consolidated Appropriations Act, 2022 (P.L.117-103) provides a 151-day extension for certain temporary telehealth flexibilities after the official end of the COVID-19 PHE. GNYHA believes these vital telehealth flexibilities should be further extended and supports the House-passed Advancing Telehealth Beyond COVID-19 Act of 2021 (H.R.4040), which would extend telehealth policies implemented during the COVID-19 PHE for two years, through 2024. The bipartisan bill's continuation of telehealth flexibilities, including audio-only services and expansion of reimbursable providers and service availability regardless of patient geography, will improve health care access, specifically for high-risk and vulnerable patients, while reducing costs on many overburdened hospitals and health care systems.

GNYHA also supports the bipartisan Hospital Inpatient Services Modernization Act (H.R.7053/S.3792), which provides a two-year extension of the Centers for Medicare & Medicaid Services' Acute Hospital Care at Home program beyond the end of the COVID-19 PHE. The program allows qualified patients to receive acute-level care in their homes and maximizes inpatient bed capacity at hospitals, limiting potential COVID-19 exposure for practitioners and non-COVID-19 patients. *Congress should enact the Advancing Telehealth Beyond COVID-19 Act of 2021 and the Hospital Inpatient Services Modernization Act.*

MEDICARE ADVANTAGE (MA) PRIOR AUTHORIZATION PROCESS IMPROVEMENTS

Pass the Improving Seniors' Timely Access to Care Act of 2022

MA plans, the private plan alternative to traditional Medicare, can require enrollees to get approval from the plan before receiving a service from a health care provider. These prior authorization requirements can prevent or delay enrollees from receiving medically necessary care and burden providers. In recent years, inappropriate authorization and payment denials by MA plans have threatened patient access to care, contributed to clinician burnout, and driven excessive administrative costs in the health care system.

In April 2022, the Office of Inspector General (OIG) of the Department of Health and Human Services issued a report on the performance of Medicare Advantage Organizations (MAOs). The report found, based on sampled prior authorization and payment denials, that 13% of MAO denials of prior authorization requests would have been approved under tradition-

al Medicare and 18% of payment requests from providers were improperly denied.[5] GNYHA member hospitals routinely express their frustrations with prior authorization and claim denials resulting from MA plan tactics. According to a GNYHA survey, 28% of MA-billed inpatient claims (71% of which were clinical in nature) for the first six months of 2019 were initially denied.[6] The GNYHA survey reinforces the concerns outlined in the OIG report and highlights the need for increased Federal oversight of MA plans' utilization review practices.

The Improving Seniors' Timely Access to Care Act of 2022 (H.R.8487), which passed the House Ways and Means Committee in July, would establish an electronic prior authorization process and reduce how long a health plan can consider a prior authorization request. It would create a "real-time decisions" process for routinely approved services and require MA plans to report on their prior authorization use and rate of approvals and denials. The bill would also establish enrollee protection standards, including requiring MA plans to adopt transparent prior authorization programs (developed with enrollee and provider input) and conduct annual reviews of items and services subject to prior authorization. *Congress should pass the Improving Seniors' Timely Access to Care Act of 2022, which would be the first step to address MA prior authorization issues.*

SUPPORTING SAFETY NET HOSPITALS

Safety net hospitals see society's most vulnerable patients: low-income individuals, Medicare and Medicaid beneficiaries, and the uninsured.[7] Safety net providers are overwhelmingly located in financially disadvantaged areas, many of which are comprised of low-income communities of color, where health and economic disparities are particularly prevalent.

Safety net providers deliver essential but costly services like trauma care and psychiatric care in communities where health care options are often scarce. Treating these patients results in lower reimbursement payments to providers than treating commercially insured patients. Safety net providers consequently operate on razor-thin profit margins and rely on government support as a lifeline to stay afloat.

Decades of chronic underfunding and low reimbursement rates have brought safety net facilities across the State to the financial brink. Even prior to the pandemic, New York had nearly 30 hospitals on a State "watch list" because of their precarious financial position.[8] Since then the number of safety net hospitals facing dire financial challenges has only grown, and additional strain on these struggling facilities could force providers to reduce critical services or even close their doors permanently. *Congress should deliver robust Federal investment that alleviates the enormous financial strain on safety net providers and preserves access to health care services in vulnerable communities.*

EXPEDITE DISTRIBUTION OF FEMA REIMBURSEMENT FUNDS

FEMA's Public Assistance (PA) program is the primary reimbursement mechanism to address the extraordinary costs providers have incurred in responding to the COVID-19 pandemic. While the assistance received to date is appreciated, GNYHA members have outstanding claims and there are several process and policy issues that have stymied the release of critically needed financial resources. Additional details on FEMA PA policy issues are available here. *Congress should urge the Biden Administration to expedite the distribution of FEMA PA funds to New York providers and provide greater flexibility on allowable labor expenses, among other policy flexibilities.*

5. Office of the Inspector General. (April 2022). "Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care, OEI-09-18-00260," https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf.
6. Survey data reflects inpatient denied claims for the dates of service within the first six months of 2019 for 27 member hospitals.
7. Sutton JP, Washington RE, Fingar KR, et al. Characteristics of Safety-Net Hospitals, 2014. 2016 Oct. In: Healthcare Cost and Utilization Project (HCUP) Statistical Briefs [Internet]. Rockville (MD): Agency for Healthcare Research and Quality (US); 2006 Feb-. Statistical Brief #213. Available from: https://www.ncbi.nlm.nih.gov/books/NBK401306/
8. Greater New York Hospital Association. (2021). Retrieved from: https://www.gnyha.org/wp-content/uploads/2021/11/GNYHA-Testimony-Medicaid-NYS-Assembly.pdf.