FEBRUARY 7, 2000

Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

Congress Considers Medicare "Modernization"

On January 24, 2000, the 106th Congress returned to Washington with many members of Congress calling for legislation to make substantial changes to the Medicare program before Congress adjourns for the fall campaign. The details of some of the proposed changes are summarized below. The Medicare issue that is most on the minds of members of Congress continues to be expanding the program to provide coverage for the costs of outpatient prescription drugs,although there is, as yet,no broad consensus on a Medicare prescription drug coverage proposal. In addition,some members,including Senators John Breaux (D-LA) and Bill Frist (R-TN),are advocating legislation that would implement Medicare reform recommendations considered by a Medicare advisory panel last year. Those recommendations, which failed to gather the necessary support to be approved by the Bipartisan Commission on the Future of Medicare in March 1999, are embodied in

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GNYHA Opposes "Premium Support" Plan

Since the Bipartisan Commission on the Future of Medicare completed its work in March 1999, failing to reach a consensus on a Medicare reform plan, GNYHA has expressed grave concern about the main proposal considered by the Commission. Despite the failure to approve the proposal, known as "premium support," many members of Congress have expressed interest in advancing legislation based on the premium support model. Most significantly, Senator John Breaux (D-LA) and Senator Bill Frist (R-TN) have introduced S.1895, which Senator Frist asked the Senate to act upon this month in his response to the President's State of the Union address. As a result, GNYHA has continued to express its opposition to many aspects of the plan.On January 24,GNYHA reiterated its concerns to New York's Senators Daniel Patrick Moynihan and Charles E. Schumer. Senator Moynihan is the ranking Democrat on the Senate Finance Committee,

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GNYHA Board Meets

The GNYHA Board of Governors met on January 27,2000,and took the following actions:

- endorsed the nomination of Harold Freeman, M.D., President of North General Hospital, to fill a vacancy in the GNYHA Board of Governors Class of 2000;
- was updated on HCFA's January 20, 2000,proposed rule for Medicare disproportionate share hospital policy, and the effect this decision will have on New York hospitals;
- was briefed on the accomplishments of the GNYHA-1199/SEIU Healthcare Education Project,the fiscal impact of HCRA 2000 on GNYHA members, and GNYHA's role in a number of HCRA 2000 and Family Health Plus implementation issues;
- heard a report on Governor George E. Pataki's proposed budget for State fiscal year 2000–2001 and GNYHA's State legislative agenda for 2000;
- was briefed on GNYHA's Federal agenda and discussed the prospects for additional relief from the Balanced Budget Act and for Medicare reform;
- was updated on a number of important legal, regulatory, and professional affairs issues, including new requirements concerning resident working hour limitations, health disparities and barriers to care, and the Institute of Medicine's medical errors report;
- heard updates on the new State lobbying rules, the Adult Day Health Care Report, and a recent Advisory from the Educational Commission for Foreign Medical Graduates;
- heard a report on several GNYHA businesses;and
- approved an application for Institutional Membership by Brooklyn United Methodist Church Home and an application for Associate Membership by the New York Organ Donor Network. ■

Department of Insurance Regulations Generate Controversy

Draft proposed regulations by the New York State Department of Insurance seek to impose new requirements and rules regarding the transfer of insurance risk from insurers and HMOs to providers and groups of providers organized as independent practice associations (IPAs). Currently, only HMOs are allowed to share risk with others, subject to a case-by-case evaluation by the Department of Health that the provider or IPA assuming risk is finan-

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the Breaux/Frist proposal. The sponsors intend that senior citizens who choose lower-cost plans with fewer benefits would see most of their premium costs covered by the "premium support" payment provided by the Medicare program. The difference between the actual premium cost for the plan chosen and the "premium support" amount would be the beneficiary's responsibility. Premium support amounts would be adjusted for geographic differences in health care costs using an unspecified methodology; however, the bill specifically states that geographic adjustments must be limited "to variations based on input costs of providing covered items and services in different areas." Therefore, no variation in practice patterns would be allowed. One of the more controversial aspects of the proposal is that S.1895 would transfer most of the current functions of the U.S. Health Care Financing Administration to an independent, seven-member board that would not be accountable to the President or Congress. The President would appoint the board's members with the advice and consent of the Senate. GNYHA opposes the Breaux/Frist bill (see related story on page 1).

"Modernizations": While the President has not proposed anything as sweeping as the Breaux/Frist premium support model, his Medicare "modernization" package, to which he referred in his State of the Union Address, includes many significant Medicare changes, many of which Congress has rejected in the past. While all the details will be released with the President's proposed fiscal year 2001 budget on February 7, some are already known: 1) voluntary prescription drug coverage is proposed for senior citizens by phasing in coverage for half the costs of outpatient prescription drugs up to $2,500 per year; 2) the President proposes transferring $400 million of the projected Federal budget surplus over the next 10 years to the Medicare Part A trust fund to ensure solvency through 2025, which GNYHA strongly supports; and 3) the President is expected to propose a number of payment reform initiatives, including expanding the Centers of Excellence demonstration project nationwide and creating a competitive bidding process for some Medicare items and services. GNYHA has expressed concern about expanding the Centers of Excellence program. The President may again propose extending a variety of Medicare payment reductions contained in the Balanced Budget Act of 1997 (BBA) past their expiration on September 30, 2002. GNYHA opposes so-called BBA extenders, and has instead called for the repeal of several BBA reductions. ■

Legislative Digest

In recent weeks, Committees for the New York State Assembly and the New York State Senate have taken action on the following health-related pieces of legislation:

Funding for Family Health Plus (FHP): A.9409, which was sponsored by Assemblyman Canestrari and provides for State reimbursement of health care payments made on behalf of social services districts for medical assistance and for the FHP program, was passed by the Assembly Ways and Means Committee on January 31 and is currently being considered by the Assembly Rules Committee. Senator Rath has sponsored a similar bill, S.6201, that is being considered in the Senate Health Committee. • **Hospital Establishment:** The Assembly Health Committee has approved a bill, A.4096, that would ensure that entities with operational authority over a hospital are subject to establishment approval by the Public Health Council. GNYHA believes that the current Certificate of Need process ensures that adequate safeguards exist to prevent the elimination of health care services in affected communities and thus opposes the bill. • **Enhancing Security Measures:** The Assembly Ways and Means Committee is considering a bill, A.4095, that would create within the NYS Department of Health a Health Care Facility Security Program under which Article 28 facilities could apply for grants and/or increased Medicaid reimbursement rates to help offset the costs of enhanced security systems. GNYHA supports A.4095. • **Surrogate Decisions:** The Assembly Codes Committee has approved a bill, A.4114, that would create a process for allowing surrogates to make decisions on behalf of patients who become incapacitated but have neither appointed a health care proxy nor provided "clear and convincing" evidence of their wishes. GNYHA strongly supports A.4114. • **Hospital Construction:** The Assembly is considering a bill, A.3320, that would require the Commissioner of Health and the Public Health Council to consider the impact of proposed hospital construction on access to essential health care services. GNYHA opposes the enactment of A. 3320 and believes that current statutes and regulations are sufficient to ensure access to those in need of health care services. • **Consent for Visual Observation:** The Senate Health Committee has approved legislation, S.2197, that would require the consent of any patient with a disability for any visual observation during a hospital stay. GNYHA opposes this bill because, if enacted, it would seriously interfere with the medical education conducted by teaching hospitals. • **Hospital Privileges:** The Assembly Health Committee has approved a bill, A.7885, that would make it an improper practice for the governing body of a hospital to deny staff membership or professional privileges to health practitioners based solely on the practitioner's category of licensure. GNYHA believes that section 2801-b of the Public Health Law protects health care practitioners from discrimination with respect to the granting of staff membership and professional privileges. Therefore, GNYHA strongly opposes A.7885. ■

Clinton Unveils Insurance Initiatives

On January 19, President Clinton unveiled a 10-year, $110 billion package of initiatives designed to extend health insurance coverage to over 5 million Americans. The proposals would extend coverage by 1) providing states with enhanced Federal matching funds to extend Medicaid and the State Children's Health Insurance Program (S-CHIP) to parents, young adults ages 19 and 20, and all children and pregnant women who are legal immigrants; 2) providing states with $5.5 billion over 10 years to strengthen efforts to get more eligible children enrolled in Medicaid and S-CHIP; 3) allowing older Americans ages 62 to 65 and displaced workers ages 55 to 65 to pay premiums to enroll in Medicare using a new tax credit worth 25% of the premium; 4) providing tax credits to uninsured small businesses to help them purchase insurance for their employees; and 5) providing grants totaling $1 billion over 10 years to health care providers that treat the uninsured. In his State of the Union address on January 27, the President also urged Congress to pass a Medicare prescription drug benefit and a new tax credit for pharmaceutical companies to encourage them to develop vaccines to prevent diseases that are prevalent in Third World countries. ■

GNYHA Forms Health Disparities Workgroup

GNYHA's first workgroup meeting on health disparities will address concerns that have been raised regarding health disparities based on race and ethnicity and related barriers to care. A number of recent studies highlight the disparities that exist in health, access, and referral patterns among different populations. The upcoming workgroup meeting will focus on self-assessment forms that have been recommended by the U.S. Department of Health and Human Services for the purposes of determining whether providers are delivering culturally appropriate care as well as ensuring access to their services without regard to race or ethnicity. The workgroup will also focus on cultural competency training, services to limited English proficiency patients, programs to identify and meet the health care needs of diverse populations, and incorporating reviews of health disparities in quality improvement programs. The workgroup will meet on Wednesday, February 16, 2000,from 9:00 a.m. to 11:30 a.m., in the GNYHA Conference Center at 555 West 57th Street, on the 15th floor. For more information,call Susan C. Waltman, and to register, call Adele Danahy, both at GNYHA. ■

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S.1895, the Medicare Preservation and Improvement Act of 1999,sponsored by Senators Breaux and Frist. President Clinton has expressed opposition to the Breaux/Frist proposal,calling instead for the enactment of a number of other Medicare "modernization" measures. Senator William Roth (R-DE), Chairman of the Senate Finance Committee, has stated that he would like to hold a series of Medicare reform hearings in the coming months, including, perhaps, a hearing on graduate medical education, with the goal of Committee action on a Medicare reform proposal, perhaps modeled after the Breaux/Frist bill, in the spring. Senator Breaux is a member of the Finance Committee. Senator Roth has also expressed the desire to include a prescription drug proposal in a Medicare reform bill;however, he has said he opposes adding outpatient prescription drug coverage to the Medicare benefits package without significant, cost-saving Medicare reforms. In the House,meanwhile, Congressman Bill Thomas (R-CA), Chairman of the House Ways and Means Subcommittee on Health, has stated his intention to introduce his own legislation, which would be similar to the Medicare reform approach taken by Senators Breaux and Frist. In addition, House majority leaders reportedly plan to work on a prescription drug plan through a Republican task force headed by House Ways and Means Chairman Bill Archer (R-TX) and House Commerce Chairman Tom Bliley (R-VA).

Breaux/Frist: The Breaux/Frist bill seeks to change the Medicare program from a "defined benefit" program to a modified "defined contribution" program known as a "Medicare Competitive Premium System." Under this system, a minimum set of Medicare benefits would be required—similar to the current Medicare benefits package—and private HMOs and insurers would compete to provide benefits within the amount of "premium support" that the Federal government would provide to Medicare beneficiaries. With their "premium support," Medicare beneficiaries would purchase Medicare coverage by choosing among private Medicare plans. Premium costs would vary based on benefit levels and plan efficiency, including a "high-option" plan that would include coverage for outpatient prescription drugs and stop-loss coverage to help beneficiaries with high out-of-pocket costs. Thus, Medicare beneficiaries would gain access to prescription drug coverage without the Medicare program adding a specific, fee-for-service prescription drug benefit,although the potential cost of the voluntary, high-option plan is not known. A fee-for-service option, without prescription drug coverage, would also be available, but is expected to be more costly than the managed care products that would be developed under

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Clinton Administration Expands Long Term Care Initiative

On January 19, 2000, the Clinton Administration confirmed that the President's budget will include a 10-year, $28 billion initiative designed to help address "the nation's multifaceted long term care challenge." The centerpiece of the President's proposal—highlighted in his State of the Union address on January 27—is a $3,000 tax credit to compensate people with long term care needs or their caregivers for the costs of care. The credit would be phased in over five years,starting at $1,000 in 2001 and increasing by $500 increments each year until the full $3,000 credit would take effect in 2005.Only those with specific needs for assistance with activities of daily living would be eligible for the credit, and the credit would phase out for couples with incomes in excess of $110,000 and individuals with incomes above $75,000. According to the Clinton Administration, the credit could be used to cover a range of formal or informal long term care services, and will benefit an estimated 2 million Americans per year. The tax credit proposal is estimated to cost $8.8 billion over five years and $26.6 billion over 10 years. Other provisions of the President's initiative include 1) providing increased resources for information and referral, as well as direct support services such as respite care,under the Older Americans Act; 2) giving states greater flexibility to provide home and community-based services under Medicaid without seeking a Federal waiver; 3) providing $100 million in grants to convert qualified low-income elderly housing projects into assisted living; and 4) giving all Federal employees expanded options to purchase private long term care insurance at group rates. For more information about this initiative, contact Scott Amrhein at GNYHA. ■

AROUND TOWN

Karl E. Nelson has been appointed Administrator of the Brooklyn United Methodist Church Home. In past years, he has been affiliated with Booth Memorial Hospital (now New York Hospital Medical Center of Queens), Coler Memorial Hospital (now Coler/Goldwater Memorial Hospital), and Beekman Downtown Hospital (now NYU Downtown Hospital). ■

SHRPC Adopts ADHC Emergency Regulations

On February 3, 2000, the State Hospital Review and Planning Council (SHRPC) adopted emergency regulations governing the operation and reimbursement of adult day health care (ADHC) programs in New York. The regulations pertaining to ADHC program operations will clarify several requirements for existing programs, including 1) that no visit shall be less than five hours, excluding transportation; 2) that registrants must have both a physician order and a comprehensive medical assessment prior to entry into the program; 3) that programs may exceed approved capacity by 5% on a given day, but average annual capacity cannot exceed the approved capacity of the program; 4) that programs may conduct more than one program session daily only if approved by the NYS Department of Health (DOH) based on the number and needs of registrants; and 5) that registrants must be provided with a "Bill of Rights" specific to the operation of the ADHC program. The reimbursement regulations would 1) set initial program-specific reimbursement rates based on budgeted costs and visits, with such rates based on actual costs following the submission of a full calendar-year cost report; 2) set capital payment rates based on total allowable capital costs divided by the total visits for the program, including all shifts; and 3) remove transportation costs from the program rate and reimburse such costs on a fee-for-service basis. The emergency regulations are effective for 90 days, after which they will expire if they are not renewed or modified by SHRPC. GNYHA will work closely with DOH in the coming weeks to relay member concerns about the emergency regulations.

Member Projects: SHRPC gave contingent approval to the following GNYHA member projects: **St. Barnabas Hospital**, certification of cardiac catheterization services; **Staten Island University Hospital–South Site**, expansion of its existing inpatient psychiatric unit; **Staten Island University Hospital–North Site**, expansion of its radiation oncology department; and **New York Methodist Hospital**, establishment of a three-station chronic renal dialysis unit. ■

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which has jurisdiction over Medicare.

GNYHA's Concerns: GNYHA has five major concerns. First, GNYHA strongly opposes transferring the functions of the U.S. Health Care Financing Administration to an independent Medicare Board that is unaccountable to future Administrations and Congresses. Second, GNYHA is concerned that the level of "premium support" would not be adequate to ensure that all Medicare beneficiaries would have access to high-quality medical care, given the incentives that would be provided to encourage beneficiaries to choose lower-cost plans. Third, GNYHA is gravely concerned that the Breaux/Frist proposal does not specify how premium support levels would be adjusted for geographic differences in health care costs and health care practices. Indeed, the proposal specifically prohibits adjusting for differences in practice patterns in different geographic areas. If not properly adjusted, New York's Medicare beneficiaries would have access to far fewer services than under the current Medicare program. Fourth, the proposal contains many incentives to encourage the increased enrollment of Medicare beneficiaries in managed care plans. Given the national outcry about the conduct and abusive payment practices of HMOs and insurers, it is surprising that members of Congress would propose a plan that would subject even more Medicare beneficiaries to a flawed managed care system. Fifth, the proposal is silent on the payment of teaching hospitals and hospitals that serve a disproportionate share of low-income patients ("DSH" hospitals). Currently, the Medicare program is phasing in the direct payment of Medicare graduate medical education funds to teaching hospitals on behalf of Medicare managed care enrollees they treat. The President, Senator Moynihan, and Congressman Charles B. Rangel (D-NY) have proposed a similar system for Medicare DSH payments. The Breaux/Frist plan contains no such proposal, thus potentially forcing teaching and DSH hospitals to wrest Medicare teaching and DSH funds from Medicare plans. ■

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cially able to manage it. In general, under risk-sharing arrangements, the capitated provider is financially responsible for all contracted services within a negotiated monthly fee that does not change according to the volume and intensity of services needed by enrollees. The draft proposed regulations would for the first time allow insurance companies other than HMOs, such as not-for-profit indemnity companies, to share risk, and would impose stringent security deposit requirements on risk-bearing providers and IPAs if the capitation covered inpatient services or services beyond the scope of what the provider itself would offer. The deposit would have to be equal to 12.5% of the capitated amount, and at least $100,000 in the case of a facility or IPA. The deposit could be in the form of securities, a letter of credit, stop-loss insurance, or a combination thereof. The draft regulations would also set rules for how capitated amounts could be used and when they would be paid. Opposition to the draft proposed rule, which would require much higher reserve requirements of capitated providers than are imposed on insurers or HMOs themselves, has come from various quarters, including health plans, physicians, and other providers. ■

Upcoming Briefing for GNYHA Members

NYS Budget for Mental Health Services
Date: Wednesday, February 23, 2000
Time: 1:00 p.m.–3:30 pm.
Location: GNYHA Conference Center, 555 West 57th Street, 15th Floor

Staff from the NYS Office of Mental Health (OMH) will discuss the 2000–2001 Executive Budget Proposal for mental health services. A focus group discussion of new approaches to the delivery of mental health services, led by OMH, will follow the briefing. This is an opportunity for GNYHA members to make direct recommendations regarding the delivery of mental health services at a time when significant financial resources are available. Governor Pataki's budget proposal includes $32 million to enhance services for individuals required by courts to receive outpatient mental health treatment. An additional $48 million, provided in HCRA 2000, is budgeted for 2000–2001 to implement the first year of a $125 million two-year initiative designed to enhance the availability and coordination of mental health services for adults and children with serious emotional disturbances. For more information, call Patricia O'Brien, and to register, call Anita Wall, both at GNYHA.