June 23, 2008

Skyline news

Reporting on New York's Health Care News

# House Passes War Bill Blocking Some Medicaid Regs; Medicare Bill in Limbo

On June 19, the U.S. House of Representatives passed the $165 billion Iraq War Supplemental bill in two amendments. The first amendment, approved on a 268–155 vote, includes $165.4 billion to fund the war through the first part of FY09. Approved on a 416–12 vote, the second amendment, which reduces war spending to $161.8 billion by diverting $3.6 billion for other needs, includes critical moratoria that will block action until April 1, 2009, on six Medicaid regulations issued by the Bush Administration—including elimination of Federal graduate medical education funding, limits on intergovernmental transfers, and reduction of provider taxes. While previous versions of the bill had included an additional moratorium on the hospital outpatient rule, House leadership withdrew this measure to avoid a White House veto. Under the proposed outpatient rule, public hospitals in New York could lose $120 million per year, while the State as a whole would lose roughly $300 million annually.

Because the House modified the underlying bill, the measure must now return to the Senate for final approval. While the Senate had originally wanted additional domestic spending in the package, Senate Majority Leader Harry Reid (D-NV) said that he hoped to pass the measure "as is" at which point it will go to the President. GNYHA will continue to advocate for a separate moratorium on the remaining outpatient Medicaid regulation.

On the Medicare side, Senate Finance Committee Chairman Max Baucus (D-MT) on June 6 released his long-awaited Medicare

*continued on page 4*

## GNYHA BOARD MEETS

*The GNYHA Board of Governors met on June 19, 2008, and took the following actions:*

- was called to order by new Chairman Jim Foy of Riverside Health Care and welcomed the new Board members who were installed at the Annual Reception event on June 4;
- approved the slate of staff officers for the Boards of the Association and its subsidiaries and affiliate;
- received a report of the latest economic forecasting for both New York State and the nation;
- engaged in a robust discussion about the ongoing medical malpractice reform and cost relief discussions among the Executive Branch, the New York State Legislature, and stakeholders;
- heard the latest on several health care bills under consideration during the few remaining days of the New York State legislative session, including measures to address nurse overtime, payer billing practices, and HIV testing;
- received an update on pending Federal Medicare and Medicaid legislation, specifically the latest on Senator Baucus' (D-MT) attempts to secure a fix for the 10.6% cut to physician payments as well as the status of the latest attempts to place moratoria on seven damaging Medicaid regulations which are still open for implementation;
- revisited some questions raised at the last Board of Governors meeting, during which New York State Medicaid Inspector General James Sheehan provided his views on Medicaid governance and compliance for providers, and heard about a "regulatory reconciliation" process that GNYHA has developed in response to myriad, sometimes conflicting regulatory requirements placed on providers.

As this was the last meeting of the 2007–08 Association term, the Board will be on hiatus for the summer months and will resume meetings for the 2008–09 Association term in the early fall. ■

# Agreement on Nurse Overtime Reached

On June 18, New York Governor David Paterson and State legislative leaders reached agreement on legislation designed to place reasonable limits on the ability of employers to require nurses to work longer than their regularly scheduled hours. The legislation (A.11711/S.8637), which is the product of intense negotiations between legislators, GNYHA, the Healthcare Association of New York State (HANYS), and nurse unions, includes many provisions supported by GNYHA members, including the ability to require a nurse to stay on duty if the employer determines that a staffing emergency exists, as long as it could not be planned for and does not regularly oc-

*continued on page 3*

# CCLN Wraps up Initial Series of Educational Programs

The Critical Care Leadership Network (CCLN), a joint initiative of GNYHA and the United Hospital Fund, ended its first year of educational programs on June 17 with two half-day programs, "Burn Management: The First Three Days" and "Fundamentals of Surgical Critical Care." More than 100 physicians and nurses from 33 hospitals attended the program, which was designed to provide practical instruction on caring for burn and post-surgery patients in the non-specialty critical care setting. As with the other programs in the series that began last fall, the June 17 sessions strived to promote better adherence to evidence-based practice guidelines, and, ultimately, better patient outcomes. The programs also featured local expertise in critical care and highlighted the New York region as a national leader in critical care medicine.

John McNelis, M.D., Winthrop-University Hospital; Joseph Cooke, M.D., NYP-Weill Cornell Medical Center; John Oropello, M.D., Mount Sinai School of Medicine

The first half of the day focused on early care of patients with major burns. Starting with the premise that care of patients with major burns is best provided by a multi-disciplinary team at a burn specialty facility, the training prepared health care providers at other (i.e., non-burn specialty) facilities who may be responsible for the early care of such patients before they can be transferred to a burn facility, especially in the case of multi-casualty events or disasters. The session reviewed the fundamentals of the comprehensive management of major burn victims up to 72 hours after a burn incident and covered many topics including resuscitation, inhalation injury, early wound treatment, physiologic support, as well as special topics like mass casualty triage protocols, chemical and electrical injuries, abuse, preservation of function, and environmental and pain control.

The second half of the day examined issues specific to surgical critical care and the management of patients by critical care professionals who are not surgical specialists. A number of cross-cutting themes, such as resuscitation versus diuresis, surgical versus non-operative management, and when to call for surgical support, framed the sessions; however, the program included specific training in the areas of hemorrhagic shock, pancreatitis, thoracic and pelvic trauma, as well as ischemic bowel and colonic ischemia.

The CCLN will spend the next few months reviewing the feedback and lessons learned from the educational programs offered over the last year to develop its schedule of programs for the coming year. For more information on upcoming critical care educational programs, as well as other activities of the CCLN, contact Terri Straub or Zeynep Sumer at GNYHA. ■

# GNYHA Submits Comments on FY 2009 IPPS Proposed Rule, Urges Overhaul of P4P

On June 13, GNYHA submitted comments to the Centers for Medicare & Medicaid Services (CMS) on its inpatient prospective payment system (IPPS) proposed rule for Federal fiscal year 2009, which starts on October 1, 2008. The most important payment-related proposals centered on capital payments to teaching hospitals and quality-related policies. GNYHA's full comment letter can be found in Member Letter Bulletin #67 on the GNYHA Web site, **www.gnyha.org**.

**Capital payments to teaching hospitals.** CMS' most deleterious proposal to GNYHA members was to eliminate the indirect medical education (IME) adjustment in the capital PPS. CMS justified this proposal, which would yield $400 million in annual savings, by observing that teaching hospitals were not spending all of their capital PPS payments on capital-related costs. GNYHA argued that ever since the PPS replaced cost-based reimbursement, capital payments are not meant to reimburse capital-related costs. Rather, they are merely the capital share of total payments, which hospital administrators allocate to optimize patient care services at their individual facilities. In point of fact, the IME adjustment in the capital PPS is based on variation in *total* cost per case and is still empirically valid. Furthermore, teaching hospitals are not overpaid for capital; they are under-investing in capital because of overwhelming uncompensated care costs and other priorities. GNYHA said teaching hospitals—especially in the metropolitan New York area—needed greater, not less, access to capital.

**Quality-related policies.** GNYHA believes that CMS demonstrated a strong preference for cost savings over quality improvement by proposing broad expansions of its policies to deny payment for certain hospital-acquired conditions (HACs) and to require data reporting for hospitals to maintain their full annual payment update (APU). GNYHA commented that all but four of the 22 proposed HAC conditions for non-payment are inappropriate because they are not almost always avoidable. Moreover, the expansion of the APU measures from 37 to 142 (see table) would exponentially increase the reporting burden on hospitals. GNYHA strongly opposed these expansions and presented a comprehensive set of principles that should guide

*continued on page 3*

# NYS DOH Proposes Medicaid Primary Care Standards

On June 12, the New York State Department of Health (DOH) issued draft standards for the delivery of primary care, which providers must meet in order to participate in the State's Medicaid program. The draft standards were issued in two parts: general standards that apply to all primary care clinicians in all settings and an additional set of standards that would apply to Article 28 facilities with training programs in internal medicine, pediatrics, and/or family practice. The standards, which can be found at **www.health.state.ny.us/health_care/medicaid/standards**, are slated to take effect in January 2009.

According to DOH, the draft standards are drawn from existing standards contained in Medicaid managed care contracts and residency program requirements. DOH is specifically seeking comments regarding whether most providers currently are able to meet these standards; whether these standards are likely "to improve the quality, continuity, and coordination of primary care for Medicaid members"; and whether certain standards should be delayed, and if so, for how long. GNYHA is convening a member work group to develop comments on the standards, which are due to DOH by August 8, 2008. ■

# Nurse Overtime *continued*

cur. The bill would also clarify that regularly scheduled work hours include pre-scheduled on-call time and the time necessary to give patient reports when shifts change. The bill also exempts home health agencies—a critical priority of GNYHA's long term care affiliate, the Continuing Care Leadership Coalition (CCLC). The bill is expected to be approved by the full Legislature on June 23 and the Governor is expected to sign it into law shortly thereafter. The bill would take affect on July 1, 2009. ■

# GNYHA, CCLC Address Pressure Ulcer Improvement

As part of ongoing quality improvement initiatives, GNYHA and the Continuing Care Leadership Coalition (CCLC) are conducting "train the trainer" workshops focused on a systematic team-based approach to improving quality of care related to pressure ulcers across health care settings. CCLC and GNYHA developed the program with funding from the Health Workforce Retraining Initiative (HWRI), which the New York State Departments of Health and Labor awarded CCLC for the purposes of improving pressure ulcer care.

To create the training, GNYHA and CCLC worked with a steering committee of hospital and long term care members and other experts, including the training consultant for the workshops, Jeffrey Levine, M.D., a local geriatrician and expert in wound care and pressure ulcer improvement. GNYHA and CCLC's pressure ulcer workshop addresses six key elements of pressure ulcer care: prevention, assessment, treatment, documentation, regulation and risk management, and leadership and team building. The interactive, cross-setting learning environment allows member to share best practices and raise awareness about ways to successfully reduce the risk of pressure sores across the entire continuum of care. Two additional workshops are scheduled for July 2008 (see GNYHA Member Briefings section). For more information, please contact Kelly Donohue at **donohue@cclcny.org**.■

# GNYHA Comments *continued*

CMS's policies. Furthermore, its proposed pay-for-performance (P4P) program would harm most hospitals by including virtually all of the measures for which the Agency would collect and report data and by cutting payments to any hospital that did not perform in the top tier on almost all of the measures. GNYHA proposed an alternative approach that would maximize the benefit to patients: CMS should propose to administer P4P through the Quality Improvement Organizations (QIOs) and instruct the QIOs to work with each hospital to select one approved project and one reasonable performance goal each year which, if attained, would guarantee full payment. That way, each hospital could tailor its quality improvement effort to its highest-priority need and every hospital in every community would achieve steady progress. ■

**CMS Proposed Topic and Measure Expansion in FY 2010 and FY 2011**

| Topics | Current Measures | Proposed for FY 2010 | Proposed for FY 2011 |
|---|---|---|---|
| Total | 37 | 79 | 142 |
| Heart Attack | 8 | 8 | 8 |
| Heart Failure | 4 | 4 | 4 |
| Pneumonia | 7 | 6 | 6 |
| Surgical Care Improvement Project | 7 | 8 | 10 |
| Mortality Measures (Medicare patients) | 3 | 3 | 3 |
| Patients' Experience of Care | 1 | 1 | 1 |
| Emergency Room Heart Attack | 7 | 7 | 7 |
| Readmission Measures (Medicare patients) | - | 3 | 3 |
| Inpatient Stroke Care | - | 5 | 5 |
| Venous Thromboembolic Care | - | 6 | 6 |
| AHRQ Patient Safety Indicators | - | 4 | 4 |
| AHRQ Inpatient Quality Indicators | - | 2 | 2 |
| AHRQ IQI Composite Measures | - | 3 | 3 |
| Nursing Sensitive Measures | - | 4 | 4 |
| Cardiac Surgery Measures | - | 15 | 15 |
| Chronic Pulmonary Obstructive Disease Measures | - | - | 1 |
| Complications of Vascular Surgery | - | - | 3 |
| Inpatient Diabetes Care Measures | - | - | 1 |
| Healthcare Associated Infection | - | - | 2 |
| Timeliness of Emergency Care Measures | - | - | 3 |
| Complication Measures (Medicare) | - | - | 1 |
| Healthcare Acquired Conditions | - | - | 3 |
| Hospital Inpatient Cancer Care Measures | - | - | 5 |
| Serious Reportable Events in Healthcare | - | - | 24 |
| Average Length of Stay Coupled with Readmission Measure | - | - | 1 |
| Preventable Hospital-Acquired Conditions | - | - | 17 |

# Medicare Bill *continued*

bill (S. 3101) that would fix the 10.6% physician payment cut slated for July 1, among other Medicare provisions. Much to the relief of the hospital community, the Baucus bill also excludes both direct cuts to hospitals and the implementation of a value-based purchasing (VBP) program. While supportive of the VBP concept, GNYHA does not believe that such a program should be implemented without Congressional hearings or other opportunities for providers to weigh in on how the program should be structured.

GNYHA, with the Association for American Medical Colleges (AAMC) and other key stakeholders, continues to advocate for new provisions that would protect teaching hospitals from the elimination of capital indirect medical education (IME) payments and that would clarify how medical resident time can be counted. Prior to the cloture vote in the Senate, the White House issued a veto threat on the bill, citing issues with the cuts to Medicare's private managed care program, Medicare Advantage. As such, it was not surprising that Senate Republicans succeeded in keeping the measure from moving forward on June 12, by a vote of 54–39 (60 votes were needed to proceed).

As a counter to the Baucus proposal, Senate Finance Committee Ranking Member Charles Grassley (R-IA) introduced his own Medicare package on June 10. While much of the Grassley bill is similar to the Democratic proposal, GNYHA strongly opposes two provisions—the implementation of a VBP program entirely at the Administration's discretion and a policy that would require all states to develop Medicaid payment systems "consistent with Medicare" for certain hospital-acquired conditions. Senators Baucus and Grassley must now work together on crafting a new agreement, though it is unclear whether a compromise bill can pass the Senate before the July 1 physician cut deadline. ■

## Upcoming GNYHA Member Briefings

### Linkage, Inc.

**Date:** *Tuesday, June 24, 2008*
**Time:** *2:00 p.m.–3:00 p.m.*
**Location:** *Web-based Demonstration*

As announced earlier this month, GNYHA Services, Inc. has signed a new group purchasing agreement with Linkage, Inc., an organizational and leadership development company with over 20 years of experience in helping public and private health care clients enhance the effectiveness of their senior staff, improve internal communication, and develop talent for succession purposes, among other services. At the demonstration, Linkage will discuss its consulting and educational services, which include executive coaching, 360 degree assessments, customized programs, on-site and public workshops, and yearly conferences. For more information, or to register for the demonstration, contact Barbara Green (212-259-0720; **green@gnyha.org**) or Justin Muschong (212-258-5304; **jmuschong@gnyha.org**). ■

### Effective Use of Mediation in Health Care Briefing

**Date:** *Monday, June 30, 2008*
**Time:** *10:00 a.m.–12:30 p.m.*
**Location:** *GNYHA Conference Center, 555 West 57th Street, 15th Floor*

Mediation is an important tool that can be effective in resolving various types of conflicts related to the provision of health care. On Monday, June 30, 2008, GNYHA will hold a briefing on the effective use of mediation and mediation skills and techniques, along with a discussion on how basic mediation skills can help organizations comply with the new Joint Commission conflict management process requirements that become effective January 2009. If you would like to attend the briefing, please contact Rosanne Casey at **rcasey@gnyha.org.** If you have any questions about the briefing, please contact Lorraine Ryan at (212) 506-5526 or **ryan@gnyha.org.** ■

### Ambulatory Patient Groups Implementation Training

**Date:** *Wednesday, July 9, 2008*
**Times:** *8:30 a.m.–12:30 p.m.; 1 p.m.–5 p.m.*
**Location:** *GNYHA Conference Center*
*555 West 57th Street, 15 Floor*

GNYHA, in conjunction with the Healthcare Association of New York State, will host training sessions on the implementation of Ambulatory Patient Groups (APGs) as the new payment methodology for Medicaid outpatient services. The New York State (NYS) Department of Health (DOH), 3M (the developer of APGs), and Computer Sciences Corporation (the claims processor for the NYS Medicaid program) will provide the training. The State budget agreement for fiscal year 2008–09 requires the implementation of APGs beginning with hospital outpatient clinic services on December 1, 2008, with a four year phase-in. All three training sessions will cover the same material and individuals may attend only once. The training sessions are targeted at hospital staff from the following departments: Finance/Reimbursement, Patient Accounts, Emergency Department Administrators, Ambulatory Care Administrators, and Compliance Officers. You may register to attend either in person or via the Webcast online at **http://www.gnyha.org/apgtraining.** ■

### Caring Together: Pressure Sore Improvement Training Program

**Date:** *Monday, July 14, 2008*
**Time:** *8:30 a.m.–3:30 p.m.*
**Location:** *GNYHA Conference Center*
*555 West 57th Street, Suite 1500*

**Date:** *Monday, July 21, 2008*
**Time:** *8:30 a.m.–3:30 p.m.*
**Location:** *Sarah Neuman Center for Healthcare and Rehabilitation*
*845 Palmer Avenue*
*Mamaroneck, NY*

GNYHA and CCLC are holding "train the trainer" workshops regarding pressure sore improvement across health care settings. The interactive, interdisciplinary workshop addresses six key elements of pressure ulcer care: prevention, assessment, treatment, documentation, regulation & risk management, and leadership & team building. Participants will have the opportunity to discuss their experiences, best practices, and begin developing strategies to educate staff at their facilities. Registration is required. For more information and registration, please contact Kelly Donohue at **donohue@cclcny.org.** ■