1383 Veterans Memorial Highway, Suite 26
Hauppauge, NY 11788
631-435-3000 Fax: 631-435-2343
www.nshc.org
The collective voice of Long Island's not-for-profit and public hospitals

Market Re-Balance Concept Summary

Leveling the Playing Field

The Nassau-Suffolk Hospital Council (NSHC), the Northern Metropolitan Hospital Association (NorMet), and the Westchester County Association joined forces in 2006 and produced a document that outlines the current insurer market imbalances that exist among suburban hospitals in New York compared to suburban hospitals in surrounding states – mainly New Jersey and Connecticut. These three groups, along with the Healthcare Association of New York State (HANYS), businesses, and consumer and physician groups, now comprise the Suburban Healthcare Alliance.

Suburban hospitals are disproportionately reliant upon the rates negotiated with commercial for-profit insurers, as compared to their city and rural counterparts that rely more heavily upon revenue from graduate medical education, rural, and indigent care pools. The white paper, "The Need to Re-Balance Market Forces for NY Suburban Hospitals and Physicians," is available on the NSHC website www.nshc.org.

NSHC and NorMet have collected statistics and data that reveal an 18 to 25 percent reimbursement rate gap between the hospital reimbursement rates in these surrounding states compared to what New York's suburban hospitals receive from commercial insurers. The gap began in 1997, when New York's hospital system moved from a regulated NYPHRM system (New York Prospective Hospital Reimbursement Methodology) to a de-regulated market system. At that time, New York's hospitals were asked to begin their negotiations with commercial insurers at the prevailing NYPHRM rates, which were at best only at or near hospitals' costs. The negotiations did not start at the list price or charge levels. Hospitals in surrounding states, that had already de-regulated some years earlier, began their commercial insurer negotiations at their list prices. As a result, these hospitals ended up with significantly higher reimbursement rates than hospitals in New York's suburban areas. The gap created in 1997 has never been overcome.

Meanwhile, suburban hospitals struggled financially. Today, many operate at a negative or breakeven operating margin, which makes it extremely difficult, on a daily basis, to cover such costs as labor, fuel, and energy, for example. On Long Island, 75 percent of the not-for-profit hospitals posted a paltry one percent or less operating margin in their most recent Institutional Cost Reports filed annually with the Department of Health. As a result, there is no money for capital investment in equipment, technology, or infrastructure needs—the very investments that are needed in order to remain

competitive in a market environment. The Suburban Healthcare Alliance wishes to level this playing field and has developed several initiatives to start the process.

- **Health Care Reinvestment Fund Suburban Demonstration Project**. A Health Care Reinvestment Fund, modeled after the banking industry's federal Community Reinvestment Act of 1977, would require commercial insurers to contribute a portion of their profits to this fund. The fund would support regional needs of hospitals, such as health information technology and physician recruitment.
- **An Act to Establish a Health Care Reinvestment Fund Demonstration Project** was introduced to state legislators on March 8, 2006.
- **Market Conduct Practices (10 total)** related to for-profit insurers were introduced as part of the Health Care Reinvestment Act. This section of the Act seeks to impose legislative requirements upon commercial insurers in matters pertaining to:

    - pre-authorizations,
    - standardized coding,
    - physician credentialing,
    - insurance card standardization,
    - retroactive denials,
    - billing procedure changes,
    - time limit for refund requests,
    - mandated electronic billing,
    - anti-trust protection for providers,
    - public financial reporting (insurers)

  On August 16, 2006, Governor Pataki signed into law a market conduct bill that addresses three of the above issues. The new law, effective January 1, 2007, requires commercial health insurance plans to:

    - Use standardized CPT coding (based on Medicare codes) for medical billing
    - Certify physicians within a 90-day period
    - Shrink the look back period from six years to 24 months when seeking refunds for overpayments.

  On August 1, 2007, Governor Spitzer signed the Health Summit Bill, which enhances consumer and provider protections. The new law, effective April 1, 2008 ensures the following:

    - Pre-authorization is guarantee of payment
    - Limits health plan's claim about not knowing enrollment status
    - Provides additional appeals mechanism for out-of-network denials
    - Allays consumers' concerns regarding tense contract negotiations through "cooling off" period

- Requires health plans to report key health care quality data to the DOH and then publish for consumers

On July 29, 2009, Governor Paterson signed the following managed care reforms into law. These reforms are the result of several years of advocacy and represent significant progress toward bringing accountability to managed care organizations and enhancing consumer and provider protections. The following became effective January 1, 2010:

- Create an explicit provider right to an external appeal of a claim denial
- Reduce payment timeframes for electronically submitted claims to 30 days
- Limit a plan's ability to deny certain claims on the basis of coordination of benefits with another insurer that is liable for payment and limit a plan's ability to deny payment for untimely filing of a claim
- Prohibit payers from changing the status of an in-network provider to out-of-network based on the status of the treating provider
- Provide limitations and greater due process protection for all providers from overpayment recovery by health plans
- Enhance discharge planning by requiring tighter utilization review timeframes for post-hospital services

For more information about the Re-Balance Concept and legislative action contact:

Kevin Dahill, president/CEO, Nassau-Suffolk Hospital Council and the Northern Metropolitan Hospital Association (631) 963-4151
Wendy Darwell, chief operating officer/vice president, Nassau-Suffolk Hospital Council (631) 963-4152
Janine Logan, communications director, NSHC (631) 963-4156; Cell: (631) 334-8321

Go to www.nshc.org to download the white paper: **The Need to Rebalance Market Forces for NY Suburban Hospitals and Physicians**

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