

# Progress Notes . . . . . November 2011

A Monthly Publication of the Nassau-Suffolk Hospital Council, Inc.

*Progress Notes* publication is a summary of regulatory and legislative news, advocacy messages, and other relevant issues affecting the delivery of hospital and health care on Long Island.

## Suburban Hospitals Outline 2012 Legislative Priorities

The Suburban Hospital Alliance of New York State (SHANYS), a consortium of 53 hospitals from the lower and mid-Hudson Valley and Long Island, kicked off its advocacy efforts for the upcoming legislative session on November 14, 2011 in meetings with members of the Independent Democratic Conference (IDC), the breakaway caucus of four Democratic senators who hold the swing votes on many key issues in the New York State Senate.

SHANYS is the advocacy arm of the Northern Metropolitan Hospital Association (NorMet) and the Nassau-Suffolk Hospital Council (NSHC). Both of these organizations are led by president/CEO Kevin Dahill.

At meetings with IDC chairman Sen. Jeffrey Klein and Sen. David Carlucci in their district offices, Dahill discussed SHANYS' legislative

priorities: *the need for expanded certificate of need (CON) reform, repealing the MTA tax, enacting medical malpractice reform, ensuring that suburban hospitals have a voice in the Health Insurance Exchange, and creating opportunities for hospitals in the state's economic development efforts* for the 2012 session, which begins in January.

The Suburban Hospital Alliance is a powerful force in New York State. The nine counties represent a quarter of the state's population, nearly 5.1 million New Yorkers,

and hospitals in these counties contribute \$22.9 billion in payroll and purchases to local communities, \$927 million in state and local income and sales tax, and provide 143,000 local jobs.



## Washington Lawmakers Stymied by Funding, Cutting Mandates

*Partial government shutdown averted, deficit reduction process fails*

**Stopgap Spending Bill:** About twelve hours before the federal government would have partially shut down, President Obama signed the stopgap spending bill that Congress passed November 17, 2011 – a day before the deadline. The stopgap bill will keep the government running until December 16, 2011, providing lawmakers with time to consider other spending measures. For now, the legislation signed by President Obama provides about \$128 billion to fund a number of federal departments and agencies,

including the departments of Agriculture, Commerce, Justice, Transportation, and Housing and Urban Development.

**“Super Committee” and Deficit Reduction Efforts:** The members of the Joint Select Committee on Deficit Reduction, the “Super Committee,” were unable to deliver a plan to cut \$1.2 trillion in spending over the next decade to the members of Congress by the November 23 deadline. Several plans had been offered by both parties, but no common ground was established. While both sides were bending somewhat on their ideals - Democrats willing to engage spending cuts and Republicans willing to raise taxes – no happy medium could be found. This sets the stage for sequestration – automatic across-the-board spending cuts to defense and other spending programs, including up to two percent in Medicare provider payment reductions. These cuts would begin in 2013. NSHC leadership worked continually throughout the process with New York’s congressional delegation to protect against cuts that would disproportionately harm hospitals on Long Island. It will continue to do so, as sequestration is advanced. President Obama has stated he would veto any of Congress’ attempts to avoid the automatic cuts. – [Janine Logan, jlogan@nshc.org](mailto:Janine.Logan@nshc.org).

### ***As State Budget Gap Widens, Medicaid Spending Cap Not Yet Breached***

The unsteadiness of national and international markets is causing volatility on Wall Street and uncertainty with the current state budget and next year’s budget. The state is now projecting that it will be short \$350 million during this fiscal year, which ends March 31, 2012, and says it is facing a budget deficit of \$3 billion to \$3.5 billion for next year, up from the \$2.4 billion shortfall previously projected by the state budget office. Meanwhile, the state report for the month of September 2011 shows Medicaid spending fell 1.8 percent, or \$314.9 million, below the global cap expenditure projections for the first and second quarters of state fiscal year 2011-2012.

There is no clear or predictable path for Medicaid revenues and expenditures, according to NSHC president/CEO Kevin Dahill, and hospitals throughout Long Island are as much affected by up and down swings on Wall Street, as they are affected by swings in Medicaid enrollment, provider billing patterns, rate adjustments, and the implementation of several Medicaid Redesign Team (MRT) measures in the coming months.

Solutions to the revenue/spend problem are few and far between, but it is definite that if Medicaid expenditures exceed the cap for the year, then the Department of Health has the authority to implement a Medicaid Savings Allocation Plan, which brings with the threat of across-the-board cuts. The entire cap for the 2011-2012 state fiscal year is \$15.3 billion. Cumulative spending for the months April through September was \$7.499 billion, compared to the projected \$7.634 billion. Regarding the current fiscal year budget gap, Governor Cuomo has indicated that he could call back the legislature for a special session this calendar year. – [Janine Logan, jlogan@nshc.org](mailto:Janine.Logan@nshc.org)

### **ACA Has Date with Supreme Court**

Earlier this month, the Supreme Court said it will hear arguments in March 2012 about the Affordable Care Act. A decision is expected mid-year, just months before the 2012 presidential election. The justices will hear arguments from lawyers on the constitutionality of the individual mandate that everyone purchase health insurance and three related questions: whether other parts of



#### **Mark Your Calendar for NSHC Events in December**

- Dec. 8 Executive Committee meeting, 8 a.m.
- Dec. 9 Revenue Cycle Committee Holiday Gathering, 12:30 p.m.
- Dec. 9 Communications Committee, Webex – “Crisis Communication: Television to Twitter,” 11 a.m.
- Dec. 14 Finance Committee Dinner, 6 p.m.

\*Meetings for NSHC members only and are held at the Hospital Council office in Hauppauge unless otherwise noted. To register/info call: 631-963-4153.

the law are voided if the mandate is struck down; whether a decision must be put off until 2015 when the first penalties for non-compliant individuals would be paid; and whether Congress can require states to expand Medicaid programs in 2014.

Several provisions of the ACA are already in place and popular with the public. These include tougher oversight of insurance companies through the medical loss ratio requirement, extension of parent's insurance coverage to young adults up to age 26, and protections for Americans with pre-existing conditions.

The hospital industry voluntarily agreed to \$155 billion in Medicare/Medicaid cuts over the course of 10 years to help fund the legislation. Hospitals on Long Island will contribute \$1.8 billion during that 10 year period.

Given the fact that these voluntary reimbursement cuts to hospitals already began in April 2010 with the promise of more insured beginning in 2014, as well as the many popular provisions already in place, hospitals are hopeful that the law will be upheld. – *Janine Logan, [jlogan@nshc.org](mailto:jlogan@nshc.org)*.



## The Quality Corner

*An update on quality reporting measures*

Mary Jane Milano, Director of Quality and Education

The Centers for Medicare and Medicaid Services (CMS) released on November 1 2011 a Final Rule with Comment on Hospital Outpatient Prospective Payment, Ambulatory Surgical Center Payment, and Hospital Value-Based Purchasing (HVBP).

**Hospital Value-Based Purchasing:** For payment determination for federal fiscal year 2014 (the second year of the HVBP) the rule finalized three outcome measures looking at 30 day mortality rates for acute myocardial infarction, pneumonia, and heart failure. CMS suspended for that same fiscal year the outcome measures related to hospital acquired conditions and the controversial efficiency measure for Medicare spending per beneficiary. For fiscal year 2014, the clinical process of care domain will be weighted 45 percent, the patient experience of care domain 30 percent and the outcome domain (the mortality measures) 25 percent.

**Outpatient Quality Measures:** The rule finalized the addition of three new outpatient quality measures for calendar year 2014 payment determination. These include measures for cardiac rehabilitation patient referral from the outpatient setting, safe surgery checklist use, and hospital outpatient volume data on selected outpatient surgical procedures. This brings the total outpatient measures for 2014 and 2015 payment determination to 26.

**Ambulatory Surgical Centers:** The rule finalized a new quality reporting program for calendar year 2014 payment determination. There will be five measures for that year: patient burn; patient fall; wrong site, wrong side, wrong patient, wrong procedure or wrong implant; hospital transfer/admission; and prophylactic intravenous IV antibiotic testing.

**ACO and Medicare Shared Savings Program:** On October 20, 2011, CMS finalized rules for Accountable Care Organizations (ACO) and Medicare Shared Savings Program (MSSP). The rule requires ACOs to commit to participate in the Shared Saving Program for three years requiring them to report on 33 quality measures in year one. In years two and three, ACOs will be paid for reporting and performance on these quality measures, with the number of measures upon which performance would be evaluated increasing from 25 in year two to 32 in year three.

## News Briefs . . .

**Medical Malpractice Court Expanding . . .** On December 1, 2011, New York Chief Administrative Judge Ann Pfau will become the coordinating judge of a New York State Court system pilot program designed to settle these cases early on in the process. The pilot program is using \$3 million in federal

grant money to train more judges in medical issues. Pfau will hear cases in Brooklyn, where she is an acting state Supreme Court justice in the commercial division. The program follows the successful approach implemented by Bronx Justice Douglas McKeon, who began focusing on malpractice cases 15 years ago. Judges in Brooklyn, Queens, Manhattan, as well as some in Erie County will receive training.

**Insurance Refunds on the Way . . .** A total of \$114.5 million in refunds was announced recently by the New York State Department of Financial Services. The refunds stem from commercial insurers' not having a medical loss ratio (MLR) below 82 percent. New York's prior approval law requires that if the amount of premium spent on care is less than 82 percent, then insurers must refund the difference to policyholders. The amount of premium above 82 percent goes to overhead, administrative expenses, and profit. Eleven insurers owed refunds. The Affordable Care Act implements a similar MLR.

**Health Care Communicators in a Twitter . . .** Public relations and health care communications experts from hospitals throughout New York State attended the HANYS Social Media Conference held at HANYS headquarters on Wednesday, November 16, 2011. Several international social media experts and pioneers explained how to engage patients and communities and create an online presence while safeguarding patient privacy and adhering to professional guidelines.

**Healthcare Hero Awards . . .** went to the following NSHC members: Vita Incantalupo, Neuro-clinical specialist at **St. Charles Hospital**; Jill Snelders, recreational therapist, **John T. Mather Memorial Hospital**; Joseph Quagliata, president/CEO, **South Nassau Communities Hospital**; Lucille Hughes, director/diabetes education, **St. Joseph Hospital**; Judie Lizewski, Wound Care/Nursing Education, **Peconic Bay Medical Center**; Stacy Wahl, Nurse Educator/Critical Care, **North Shore University Hospital-Manhasset**; Sandra Zaera, clinical educator; **Winthrop-University Hospital**; Cecilia Hill, Director, Infection Control, **St. Charles Hospital**; Kathryn Brennan, Peri-operative Supervisor, **Good Samaritan Hospital Medical Center**; Diane Carlson, Director of Nursing Support Services, **Stony Brook Medical Center**; Shyni Charley, Assistant Nurse Manager, **Nassau University Medical Center**; Margaret Connick, Staff Nurse, **St. Catherine of Siena Medical Center**; Theresa Grimes, Associate VP/Nursing Services, **John T. Mather Memorial Hospital**; Maria Vitsentzos, Palliative Care Nurse Champion, **St. Francis Hospital**; Daniel Baram, Pulmonary/Critical Care, **John T. Mather Memorial Hospital**; Juan Goetz, Attending Podiatrist, **South Nassau Communities Hospital**; Michael Sauter, **St. Charles Hospital**; Michael Focazio, **John T. Mather Memorial Hospital**; and Alison Oickle, **St. Charles Hospital**. The Health Care Hero Awards event is held each year by the Long Island Business News and it recognizes outstanding clinicians, volunteers, hospitals, and related health care providers. Susan Somerville RN, Executive Director of **North Shore University Hospital**, keynoted this year's event held November 10, 2011.

**Physician Payment Cut . . .** of about 30 percent looms January 1, 2012, unless Congress can fix the flawed formula that sets Medicare reimbursement rates for doctors or forwards legislation to stave off the cut temporarily.

## Member Hospitals

Brookhaven Memorial Hospital Medical Center

Catholic Health Services of Long Island

- Good Samaritan Hospital Medical Center

- Mercy Medical Center

- St. Catherine of Siena Medical Center

- St. Charles Hospital

- St. Francis Hospital

- St. Joseph Hospital

East End Health Alliance

- Eastern Long Island Hospital

- Peconic Bay Medical Center

- Southampton Hospital

Long Beach Medical Center

John T. Mather Memorial Hospital

Nassau University Medical Center

North Shore-Long Island Jewish Health System

- Franklin Hospital

- Glen Cove Hospital

- Huntington Hospital

- North Shore University Hospital

- Plainview Hospital

- Southside Hospital

- Syosset Hospital

Stony Brook University Hospital

Veterans Affairs Medical Center – Northport

Winthrop-South Nassau University Health System

- South Nassau Communities Hospital

- Winthrop-University Hospital

**Joint Commission Changes . . .** several key changes to the accreditation process are on tap for 2012. Notably, the Joint Commission will change how it uses ORYX-reported process of care data. Accredited hospitals that fail to achieve a composite score of 85 percent or better will need to implement a plan of correction.

**New Health Research Initiative . . .** known as the Health Care Cost Institute will allow researchers and policymakers access to a comprehensive collection of health plan and government payer data that will offer new insights into health care costs, utilization, and intensity. Beginning in 2012, the Cost Institute plans to publish its own scorecards and supporting analysis on aggregate trends of health care cost and utilization. Go to [www.healthcostinstitute.org](http://www.healthcostinstitute.org).

**Eliminating Health Disparities . . .** in providing cancer care was the focus of a conference held November 4, 2011 by the Suffolk County Department of Health Services Office of Minority Health. NSHC Facilitated Enrollment Program Director Stacy Villagran presented a session on the “Financial and Legal Issues Regarding the Diagnosis and Treatment of Cancer.”

## Committee News ...

**Quality/NYPORTS . . .** The committee met on November 2, and was briefed on the first meeting of an informal statewide NYPORTS committee. Mary Jane Milano, the Council’s director of quality and education, unveiled a compendium of quality and performance standards that hospitals must meet, and discussed how the committee could utilize this tool for future programming. The committee also discussed reaching out to the nursing home committee to discuss strategies for reducing readmissions.

**Finance Committee:** At the November 9 session, the Finance Committee received updates from HANYS and NSHC staff on the efforts of the Medicaid Redesign Team, focusing extensively on proposals to change the distribution of Indigent Care Pool funds. The committee also was briefed on the final rule establishing the Accountable Care Organization program.

**Human Resources:** At its last meeting of the year, the Human Resources Committee focused on several legislative and regulatory challenges for the new year, including the implementation of the Wage Theft Prevention Act, reporting of employer health insurance contributions on W-2 forms, and scope of practice changes under consideration by the Medicaid Redesign Team. The committee also agreed to hold a joint meeting with the Nurse Executives Committee next year to focus on future workforce challenges.

## Register Now for Trustee Briefing and Quality Awards Event

On Monday, December 5, 2011 the Suburban Hospital Alliance of New York State (joint advocacy organization of NorMet and Nassau-Suffolk Hospital Council) in conjunction with the Healthcare Trustees of New York State will hold a **Trustee Briefing from 4 – 7 p.m. at the LaGuardia Marriott Hotel**. The annual member quality awards for excellence in patient safety will also be presented at the event. Featured speaker Dr. John Combes, president of the Center for Healthcare Governance, will talk about partnerships among hospitals and between hospitals and physicians. HANYS’ president Dan Sisto will offer a timely discussion of the political and legislative landscape. Register via Christopher Guyon, [cguyon@hanys.org](mailto:cguyon@hanys.org) or 518-431-7834.



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not-for-profit and public hospitals.*