CONTINUING CARE LEADERSHIP COALITION CCLC

TESTIMONY OF SCOTT AMRHEIN
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JOINT LEGISLATIVE PUBLIC HEARING
ON THE SFY 2013-14 EXECUTIVE BUDGET PROPOSAL
JANUARY 30, 2013

Introduction

Good afternoon. I am Scott Amrhein, President of the Continuing Care Leadership Coalition (CCLC). CCLC, which is an affiliate of the Greater New York Hospital Association, represents not-for-profit and public long term care providers in the New York metropolitan area and beyond. Our members are leaders and innovators in the delivery of skilled nursing care, home health care, adult day health care, respite and hospice care, rehabilitation and sub-acute care, senior housing and assisted living, and continuing care services to special populations. We appreciate the opportunity to provide testimony to the Senate and Assembly Health Committees, the Senate Finance Committee, and the Assembly Ways and Means Committee regarding Governor Cuomo's Executive Budget proposal for State Fiscal Year (SFY) 2013-14.

Presentation Outline:

In this testimony, I will discuss the following:

- The Role of Not-for-Profits in Achieving MRT Goals and the Triple Aim
- The Changing Composition of Long Term Care in New York State
- CCLC's Budget Comments and Recommendations

The Role of Not-for-Profits in Achieving MRT Goals and the Triple Aim

The Medicaid Redesign Team's fundamental goal is to achieve the vision of the "triple aim" in New York: to improve care for individuals; to improve health for populations; and

to reduce costs within the health system. The not-for-profit long term care sector plays an essential role in accomplishing this.

With regard to *improving care for individuals*, not-for-profit providers set standards that directly influence the quality of care that all patients receive[i]. In New York, not-for-profit providers are pace setters in the following quality areas:

- *Staffing*. Not-for-profit nursing homes provide, on average, 27% more hours of registered nurse (RN) care per resident day for the patients and residents they serve[ii].

- *Quality Ratings*. Not-for-profit nursing homes consistently achieve outstanding scores on CMS's five star rating system, with more not-for-profits achieving four and five star scores for "overall quality" under the system[iii].

- *Returning Patients to Home*. Not-for-profit nursing homes have a 20% greater rate of returning patients to home and community settings, which is a sign of their success in improving the health and functional status of the patients they serve[iv].

With regard to *improving population health*, not-for-profit providers have a long history of leadership. They have been, and continue to be, innovators in the following areas:

- *Developing and Offering Service Models in the Community*. Fully 61% of all home care visits offered in New York are under the auspices of not-for-profit and public agencies[v]. And not-for-profit nursing homes are responsible for developing and operating 100% of all nursing-home sponsored independent housing, 74% of all adult day health care, and 61% of all respite care in New York[vi].

- *Care Coordination*. Fully 91 percent of the 64,000 individuals enrolled in managed long term care programs in New York City are served by one of the City's thirteen not-for-profit plans, and fully 96% of those enrolled in Medicaid

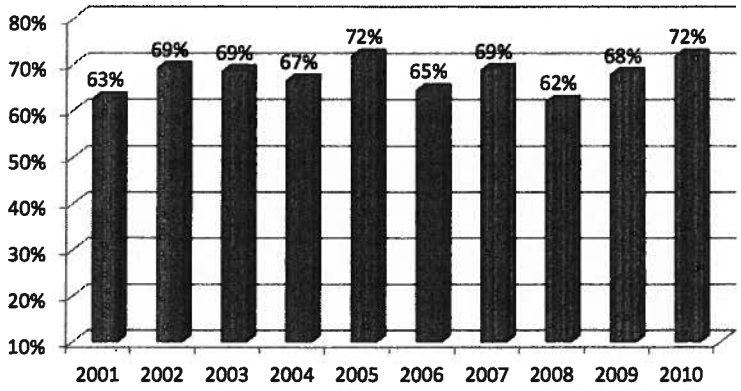
Advantage Plus programs in New York City are in plans operated by not-for-profit entities[vii].

Finally, with regard to *reducing costs within the health care system*, not-for-profit nursing homes hold the key to getting at one of the most intractable and costly problems in our health system: high rates of avoidable hospitalizations, which in New York State are estimated to generate system-wide costs approaching or exceeding $1 billion[viii]. In one of the most distinct areas of difference in the performance of not-for-profit nursing homes, they are 32% more successful in avoiding hospitalizations for short-stay residents and 25% more successful in avoiding hospitalizations for long stay residents. We need to sustain these providers and leverage their expertise in containing costs while enhancing patient care by avoiding unnecessary disruptions in care continuity[ix].

The Changing Composition of Long Term Care in New York State

Unfortunately, many of the characteristics that support the ability of not-for-profits to excel as quality providers and innovators –from their investments in highly skilled staff to the design of their physical facilities –entail costs that make it difficult to sustain positive operating margins. For more than ten years, roughly two thirds of the not-for-profit nursing homes in the State have lost money each year on operations[x].

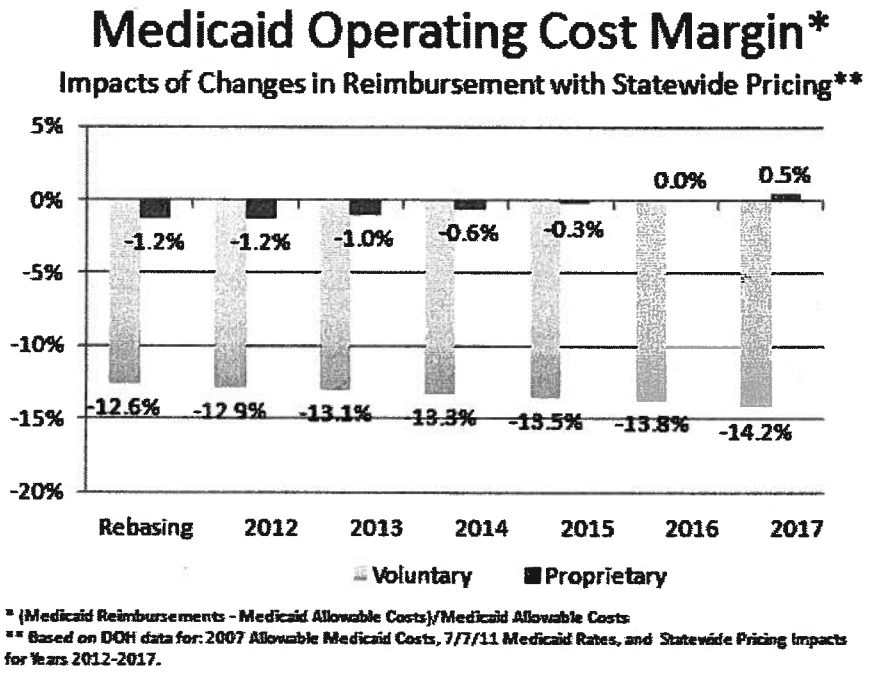
Two-Thirds of NYS Not-for-Profit* Nursing Homes Lose Money on Operations



* Voluntary and Public Nursing Homes

Data Source: 2001 to 2010 Residential Health Care Facility (RHCF - 4) Cost Reports

Pressures facing not-for-profits have only increased in the last several years. For all providers, margins have been impacted by the cumulative effect of annual trend factor cuts going back more than six years. For not-for-profit nursing homes, the transition to a price-based reimbursement system has hit especially hard. Fully 59% of the more than $740 million in losses projected for "losing" providers under the new system over six years are borne by not-for-profit providers. The impact on margins is dramatic. For not-for-profit nursing facilities overall, the phase-in of pricing over six years will reduce their Medicaid cost margins from "pre-pricing" levels of -12.6% to "fully implemented" levels of -14.2%.



* (Medicaid Reimbursements - Medicaid Allowable Costs)/Medicaid Allowable Costs

** Based on DOH data for: 2007 Allowable Medicaid Costs, 7/7/11 Medicaid Rates, and Statewide Pricing Impacts for Years 2012-2017.

Losses of this size are unsustainable, and already we are seeing an accelerating decline in total not-for-profit beds in New York, driven largely by sales and conversions on the part of facilities that can no longer sustain their programs in the current payment environment. Statewide, since 2005 we have seen the share of not-for-profit and public nursing home beds decline by more than three percentage points, from 55% to below 52%. In the New York metropolitan area especially, we are continuing to see a tilting of the balance as more conversions are explored and executed.

We need to address the payment factors that lie beneath this instability –and do it soon – or we will see the results in the form of less consumer choice; less innovation; and less dynamism around the delivery of quality care in our State.

CCLC's Budget Comments and Recommendations

CCLC's greatest concern about the proposed Executive Budget is that it continues to call for both across-the-board cuts and a freeze on trend factor increases for New York's long term care and other health care providers – and it does so notwithstanding the years of trend factor cuts identified above, and the fact that, for nursing homes, the price-based rates are built on a base that *excludes almost 20% of the allowable direct and indirect costs* used in setting the Statewide average price, which contributes to New York having the *highest per diem shortfall between Medicaid nursing home payments and cost* in the United States. With respect to the across-the-board cuts to health care providers, the proposed budget would:

- Extend for two years the 2% Medicaid payment cut applied to home care in the last two fiscal years, and
- *Permanently* extend the 0.8% assessment increase applied to nursing homes in the last two fiscal years.

With respect to trend factor increases for providers, the proposed budget would *permanently* eliminate such trend factors in Medicaid rates.

CCLC associates itself with comments in the testimony of Greater New York Hospital Association President Kenneth Raske, noting that the implementation of the Affordable Care Act will bring substantial and growing amounts of new Federal funds into New York beginning in SFY 2013-14, and that these funds should be used to restore the proposed 2% provider Medicaid rate cuts and eliminate the continuation of the nursing home 0.8% assessment, as well as to provide trend factor updates for all providers. These funds should also be used to provide additional funding for the Vital Access Provider program.

CCLC also offers the following recommendations:

- The proposal establishing that capital reimbursement for nursing homes will be determined by regulations developed by DOH, effective on January 1, 2014, should be clarified to confirm that such capital reimbursement should reflect actual facility capital costs.

- The proposal to eliminate $30 million from the financially disadvantaged nursing home program should be amended to include language explicitly stating that the $30 million shall be used for disadvantaged nursing homes within the Vital Access Provider program.

- The proposal to require implementation of a new rate methodology for specialty nursing homes by January 1, 2014 should be eliminated to allow providers, representatives of the affected specialty populations, and DOH to assess the appropriateness of moving to any new such system without the imposition of an arbitrary deadline.

I appreciate the opportunity to provide these perspectives and recommendations today. CCLC looks forward to working in partnership with the Senate, Assembly, and Office of the Governor in ensuring that essential long term care services remain strong and available to our State's elderly and disabled as the demand for these services grows in the years ahead.

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[i] Grabowski, D. C., and R. A. Hirth. 2003. Competitive Spillovers Across Non-profit and For-profit Nursing Homes. Journal of Health Economics 22(1):1–22.
[ii] LeadingAge NY. 2012. New York State Nursing Homes: Sponsorship as a Defining Factor in Outcomes
[iii] CCLC. 2013. Independent Analysis of CMS Five Star Rating Data
[iv] LeadingAge NY. 2012. New York State Nursing Homes: Sponsorship as a Defining Factor in Outcomes
[v] CCLC. 2013. Analysis of 2010 NYS Home Health Cost Report Data
[vi] LeadingAge NY. 2012. New York State Nursing Homes: Sponsorship as a Defining Factor in Outcomes
[vii] CCLC. 2013. Analysis of NYS Enrollment Data Compiled by Western New York Law Center and Selfhelp.
[viii] New York State Department of Health. Statistical Brief #6. Potentially Avoidable Hospitalizations: New York State Medicaid Program, 2009
[ix] LeadingAge NY. 2012. New York State Nursing Homes: Sponsorship as a Defining Factor in Outcomes
[xx] CCLC. 2013. Analysis based upon 2001-2010 Residential Health Care Facility (RHCF – 4) Cost Reports