

GREATER NEW YORK HOSPITAL ASSOCIATION

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TESTIMONY OF

Greater New York Hospital Association

Joint Legislative Public Hearing on the 2017–18 Executive Budget Proposal: Health/Medicaid

FEBRUARY 16, 2017

The Greater New York Hospital Association (GNYHA) is grateful to the fiscal committees of the New York State Legislature for the opportunity to submit testimony on GNYHA's positions on the proposed Executive Budget for State fiscal year (SFY) 2017-18.

GNYHA is honored to count among our members all of the hospitals in the downstate region as well as hospital systems in Albany, Buffalo, Rochester, and Syracuse. We represent all types of hospitals in the State, with the exception of rural hospitals.

Hospitals in a Precarious Position

Hospitals in New York State are in perhaps their most precarious condition ever—a sobering thought given their longtime fiscal struggles. More than two dozen hospitals across the State are on the State “watch list,” defined as hospitals with fewer than 15 days cash on hand. Many more are barely better off and are on the precipice of joining the watch list. And against this weak financial backdrop, there is immense uncertainty emanating from Washington, DC. The ongoing push to repeal the Affordable Care Act, with little detail about what may ultimately replace it, puts millions of New Yorkers at risk of losing their health insurance, the State at risk of losing billions of Federal health care dollars annually, and hospitals at risk for higher costs, due to a greater number of New Yorkers without health insurance and continued Medicare and Medicaid reimbursement rate cuts.

Given this uncertainty, GNYHA first and foremost asks the Legislature to heed the Hippocratic Oath and “*do no harm*.” There is never a good time for the State to impose unfunded mandates on hospitals, but this year it is especially critical that the State refrain from doing so. Recently, two new unfunded mandates approved by the Legislature went into effect: the safe patient handling mandate and the mandate contained in the CARE Act. A third new mandate—that hospital staff be trained regularly to identify victims of human trafficking—will take effect later this year. In the last five years alone, the Legislature has imposed 15 new unfunded mandates on hospitals, without removing any existing ones. GNYHA strongly urges the Legislature to stay away from any new hospital mandates, including bills that would force hospitals to unnecessarily hire more workers (without improving patient care) or increase medical liability insurance costs.



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The Executive Budget

The Executive Budget includes several very important proposals that GNYHA strongly supports.

First, the budget provides \$500 million for the *Health Care Facility Transformation Program*, Part II. GNYHA strongly supports this proposal as a way to preserve essential health care services in vulnerable communities and to foster system development. We especially support the proposal's flexibility to allow the State to fund applications submitted for Part I of the program that couldn't be funded out of the \$195 million originally provided (we understand that applications were submitted for well over \$1 billion). Allowing the State to fund projects for applications already submitted will greatly expedite awards. GNYHA applauds the Governor and his Administration for including this proposal in the budget: Clearly the Governor understands the urgent need for capital for health care providers, and we are extremely grateful for his support. GNYHA urges the Legislature to support this important initiative.

Second, we strongly support the proposed *Health Care Regulation Modernization Team*. This group would be charged with identifying outmoded, redundant, and costly regulations that could be streamlined, repealed, or amended. New York's hospitals are among the most regulated entities in the nation, which adds enormous cost and complexity to our operations. We applaud the Executive for including this proposal in the Executive Budget and urge the Legislature to support it.

Third, the Executive Budget continues to provide funding for financially distressed hospitals through the *Value-Based Payment Quality Improvement Program* (VBP QIP). GNYHA strongly supports VBP QIP and other State-funded programs that help ensure that hospitals can survive while transforming into providers that can meet the needs of the 21st Century health care system and participate in the State's VBP initiatives.

We are concerned, however, that the Executive Budget does not include funding to enhance Medicaid reimbursement rates for *safety net hospitals*. Worse, the budget proposes several *Medicaid cuts to hospitals* that the Executive Branch will carry out administratively. Specifically, the Executive proposes three actions that will harm hospitals: 1) a \$10 million cut to the *hospital quality pool*, 2) a \$3 million increase in the penalty for *early elective deliveries*, and 3) a \$23 million cut in Medicaid payments for 16 conditions treated in an emergency department (ED) that are deemed by the State as "*potentially preventable*" *emergency room visits*.

The State proposes taking \$3 million of the savings from the ED cut and using it to increase hospital outpatient department rates for these 16 conditions. The ED cut impacts safety net hospitals because ED visits deemed "potentially preventable" are most prevalent in vulnerable communities served by high-Medicaid and high-Medicare hospitals where access to community-based ambulatory care is more limited and patient socio-demographic factors lead to higher ED use. It is important to note that "potentially preventable" does not mean that the ED visit was not clinically indicated based on the patient's condition; instead, it means that with appropriate primary care and care coordination, it is possible that the exacerbation of the patient's condition leading to the ED visit could have been prevented. So while reducing these events is a laudable goal, we would never expect such events to be reduced to zero.

The Department of Health (DOH) posits that this initiative will incentivize hospitals to enhance access to primary and preventive care and educate their patients about appropriate use of EDs. But hospitals cannot be successful in averting such visits with fewer resources, nor can they bear the full responsibility for an issue that is affected by access to timely community-based care and beneficiary choice.

Rather than getting cut, **safety net hospitals need increased operating support**. Hospitals have not had an inflationary “trend factor” update for their Medicaid rates in a decade. Medicaid and Medicare increasingly do not cover the costs of caring for their enrolled populations—covering a mere 85% of cost on average—and hospitals that rely upon these programs for the vast majority of their revenues cannot continue to indefinitely lose money caring for these populations. GNYHA would like to work with the Legislature on an initiative to provide funding for safety net institutions. We have suggested paying for such an initiative by placing a penny-per-ounce **public health tax on unhealthy sugary drinks**. When this was proposed by Governor Paterson in 2010, the Division of Budget estimated it would raise approximately \$815 million annually, while encouraging healthier diet choices. Such a revenue stream would go a long way to provide desperately needed funding for safety net hospitals.

Other Executive Budget provisions that we have taken a position on:

- We strongly oppose the proposal to eliminate Medicaid **bed hold payments for nursing homes**. We are very concerned that this cut will make it more difficult for hospitals to discharge nursing home residents back to their nursing homes, resulting in longer hospital stays.
- We strongly oppose the proposal to consolidate 39 **public health and workforce** programs into four pools and cut the funding by 20%, as well as the proposal to cut New York City’s public health funding. Given current and emerging public health threats, we believe it is wrong to cut public health funding.
- We support a proposal that is not in the Executive Budget, but which GNYHA has discussed with DOH, to include **school-based health care** (SBHC) programs in Medicaid managed care networks, but to continue to have the State handle claims processing and other administrative functions. In this way, SBHCs can be integrated into the program while ensuring that they are properly reimbursed for their services.

Attached to this testimony is a full list of GNYHA’s budget priorities for SFY 2017-18. Members of the Legislature who have questions are welcome to contact GNYHA’s David Rich (rich@gnyha.org) or Andrew Title (atitle@gnyha.org).

Attachment

2017-18 NYS EXECUTIVE BUDGET HEALTH CARE PROPOSALS, GNYHA POSITIONS

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ISSUE	EXECUTIVE BUDGET PROVISION	GNYHA POSITION
Capital Funding	Provides \$500 million for the Health Care Facility Transformation Program, Part II. Provides funding for health care providers to enable them to transform to meet the needs of the 21st century, including enhancing and preserving essential services and system development.	GNYHA strongly supports this provision, particularly the funding levels, the fact that there is flexibility for non-bondable capital-related projects, and the ability to use the funds for unfunded projects from Part I of the program, which will expedite funding and awards. GNYHA also supports the program's non-competitive, discretionary nature, which includes parameters previously agreed to by the Legislature.
Funding for Financially Distressed Providers	Provides full funding of existing commitments to public and voluntary safety net hospitals that are on the State's "watch list" through the VBP-QIP and VAPAP programs (\$450 million).	GNYHA strongly supports full funding of existing commitments through VBP-QIP and VAPAP to public and voluntary hospitals.
Operating Funds for Safety Net Hospitals; Public Health Tax on Unhealthy Sugary Drinks	No provision to provide enhanced Medicaid operating funds for safety net hospitals. No tax on unhealthy sugary drinks to enhance public health.	GNYHA strongly supports working with the Executive and the Legislature on new operating funding for public and voluntary safety net institutions that cannot survive due to inadequate Medicaid and Medicare reimbursement rates. To finance this support, GNYHA strongly supports a public health tax on unhealthy sugary drinks . A penny per ounce public health tax proposed by Governor Paterson in 2010 was estimated by the Division of Budget (DOB) to raise \$815 million annually when fully implemented.
Regulatory Reform	Creates the Health Care Regulation Modernization Team, a 25-member body appointed by the Governor (including two members of the Assembly, two Senators, Administration officials and stakeholders) to identify regulations to be streamlined, repealed, or amended.	GNYHA strongly supports this initiative. NY hospitals and nursing homes are among the most regulated health care facilities in the world. This provision has the potential to greatly reduce unnecessary and duplicative regulations and remove significant burdens from our financially challenged health care providers.



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ISSUE	EXECUTIVE BUDGET PROVISION	GNYHA POSITION
<p>HCRA Reauthorization; Extension of Past Medicaid Cuts</p>	<p>Extends HCRA programs and funding streams for three years, through December 31, 2020. Extends Medicaid cuts enacted in past years, including inflationary “trend factor” cuts, for three years.</p>	<p>GNYHA strongly supports the extension of HCRA. HCRA contains many important health care programs and provides financing for important programs, including Medicaid. GNYHA strongly opposes the extension of past cuts, including trend factor cuts. Medicaid providers have not had a trend factor increase since 2007, despite increased costs of caring for Medicaid beneficiaries.</p>
<p>Administrative Supervision of Insurers</p>	<p>Authorizes the Department of Financial Services (DFS) to impose administrative supervision on insurers under certain circumstances.</p>	<p>GNYHA supports strengthening the authority of the DFS Superintendent to step in and supervise operations of insurers that are financially troubled or seriously mismanaged. The proposed administrative supervision authority is an important tool that DFS should have to better oversee failing insurers.</p>
<p>Health Republic Fund; Health Insurance Guaranty Fund</p>	<p>No provision.</p>	<p>GNYHA supports setting aside settlement funds, as envisioned in the SFY 2016-17 budget, to pay provider claims once the Health Republic liquidation process is complete. Providers are owed hundreds of millions of dollars for care rendered to Health Republic enrollees. GNYHA also strongly supports enactment of a health insurance guaranty fund for future insolvencies.</p>
<p>Public Health and Workforce Funding</p>	<p>Consolidates 39 public health and workforce programs into four pools and cuts overall funding by 20%. Also cuts funding for NYC public health activities.</p>	<p>GNYHA opposes both of these provisions.</p>
<p>Budget “Super Powers”</p>	<p>Authorizes the DOB to unilaterally reduce spending on programs if revenues, including Federal revenues, are less than anticipated during the fiscal year.</p>	<p>GNYHA opposes these provisions.</p>
<p>Medicaid – DOH Global Cap</p>	<p>Extends the Global Cap on Department of Health (DOH) Medicaid spending through 2018-19. Provides for a Global Cap of \$19.5 billion for 2017-18, an increase of 3.2% or \$962 million.</p> <p>But also transfers \$582 million out of the Global Cap to fund other priorities.</p>	<p>GNYHA opposes transferring \$582 million in funding out of the Global Cap, which is over 60% of this year’s Cap increase. This places pressure on Medicaid spending and is why the Executive Budget proposes reimbursement rate cuts to hospitals, nursing homes, and managed care plans.</p>

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Medicaid – Minimum Wage	Provides \$255 million outside of the Global Cap for Medicaid providers impacted by the increase in the minimum wage.	GNYHA strongly supports funding outside of the Global Cap to help Medicaid providers afford the minimum wage increase.
Medicaid – Hospital Cuts	Reduces payments to hospitals through administrative actions as follows: 1) increases the penalty for early elective deliveries from 50% to 75% (\$3 million impact); 2) reduces the hospital quality pool by \$10 million; and 3) cuts payments for “potentially preventable ER visits” by 25% and provides an increase in outpatient rates with a portion of the savings (net impact \$20 million).	GNYHA strongly opposes Medicaid reimbursement rate cuts to hospitals, and will work with the Executive to eliminate the impact of these administrative actions.
Medicaid – Nursing Home Cuts	Reduces payments to nursing homes by eliminating bed hold payments and continuing the across-the-board bed hold-related cut for total savings of \$22 million.	GNYHA strongly opposes cutting nursing home reimbursement rates, particularly for bed hold payments, which could result in difficulties discharging nursing home residents from hospitals.
Medicaid – Managed Care Cuts	Reduces managed care spending through administrative actions, including cutting the managed care quality bonus pool by \$40 million. No provision to fix enrollment in Health and Recovery Plans (HARP) for people with severe behavioral health issues.	GNYHA strongly opposes cutting the managed care quality pool. GNYHA also supports fixing HARP enrollment problems that have prevented HARP eligibles from transitioning from mainstream managed care plans to HARP.
Medicaid – Patient Centered Medical Homes (PCMHs)	Reduces or eliminates certain PGMH incentives (\$10 million impact).	GNYHA opposes reducing payments to PCMHs.
Life Sciences Initiative	Proposes 1) grants, tax incentives, and capital funding to encourage life sciences firms to establish and grow in NYS; 2) to increase lab space; 3) to support young researchers; and 4) other purposes.	GNYHA strongly supports the intent of the Executive’s proposal and seeks more details on the ability of hospitals and medical schools to participate in the initiative.