

Progress Notes

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21st Century Cures Act; Continuing Resolution Become Last Acts of 114th Congress

With minutes to spare, Congress passed a Continuing Resolution to avert a government shutdown on December 9, 2016. The Continuing Resolution funds the federal government at 2016 levels until April 28, 2017. However, the bill does include new funds for the 21st Century Cures Act. That legislation was signed by President Obama earlier this month.

The 21st Century Cures Act includes revisions to Medicare, including an adjuster for socioeconomic status (SES) when computing reimbursement to hospitals under Medicare's Readmissions Reduction Program (RRP), provisions to further interoperability of electronic health records and discourage information blocking, some relief for payment reductions related to care provided in off-campus hospital-based outpatient departments, authorization and re-authorization of behavioral health programs and \$1 billion to states to fight the opioid crisis, and nearly \$5 billion in new funding to the National Institutes of Health for specific initiatives.

The SES adjuster is an important factor to consider when computing penalties imposed on hospitals that treat

patients readmitted within 30 days of discharge. The RRP withholds payment in these readmission cases. However, discharge data confirms that a significant proportion of those readmitted after a recent discharge present with socioeconomic factors, known as the social determinants of health, which predispose them to poorer health outcomes. These factors include poverty, inadequate housing, unemployment, education status, among others. The hospital industry has long fought for an SES adjuster to be part of the RRP.

Inside this Issue

Insurance Enrollment Reform Marches On	2
News Briefs	3
Spotlight on Quality	4
Regional News	5
Committee Updates	7

The act also offers slight relief from the Medicare hospital-based outpatient department rule, also known as the site-neutral rule. That rule stems from the Bipartisan Budget Act of 2015, which lowers reimbursement to off-campus, hospital-based outpatient clinics if they were not fully operational by November 2, 2015. The Cures Act allows for a “mid-build” exception for hospital-

based outpatient departments that were under construction or had a construction agreement in place prior to November 2. The Suburban Hospital Alliance will continue to advocate for more exceptions to the site-neutral rule in the upcoming legislative session.

Insurance Enrollment and Reforms March On

A steady stream of individuals continues to engage the assistance of certified navigators for the New York State of Health Insurance Marketplace. Business intensified in the days leading up to December 17, 2016, the deadline for January 1, 2017 coverage. Open enrollment continues, however, through January 31, 2017.

Enrollment in the small business marketplace, Child Health Plus, Medicaid, and the Essential Plan are available year long, as is enrollment in Qualified Health Plans for individuals with a qualifying life event, like loss of employer-provided coverage. Individuals and small businesses can shop the marketplace online at www.nystateofhealth.ny.gov, by calling the state’s customer service number at 855-355-5777, or by meeting with a state-certified navigator.

On Long Island, Suburban Hospital Alliance regional affiliate the Nassau-Suffolk Hospital Council (NSHC) is one of three state-appointed navigator agencies for the



region. The Hudson Valley region is serviced by the Community Service Society of New York, Maternal Infant Services Network of Orange, Sullivan, and Ulster counties, and the Westchester County and Rockland County Departments of Health. Navigators are available to assist individuals, businesses, and families in understanding insurance options offered and purchasing insurance. The NSHC navigator agency maintains a user-friendly, bilingual website that lists enrollment sites and dates and other helpful information at www.coverage4healthcare.org. NSHC will hold an open enrollment at its Hauppauge location (1383 Veterans Memorial Highway, Suite 26) on January 26, 2017 from 4 to 8 p.m.

Medicaid Funding – In related news, the New York State Department of Health recently secured an extension of the federal waiver that allows it to implement extensive Medicaid reforms, such as the **Delivery System Reform Incentive Payment (DSRIP) program**. The extension runs through March 31, 2021.

News Briefs

Flu Declared Prevalent in New York – On December 28, 2016, New York State Health Commissioner Dr. Howard Zucker declared the flu virus prevalent in New York State. That initiated the state’s public health law that requires all healthcare personnel who have not received a flu vaccine for this flu season to wear a protective mask while in areas where patients or residents are typically present. This is a comprehensive endeavor to protect patients, visitors, and employees from exposure to the flu virus.

While an annual flu vaccine remains the single best method for preventing the flu, a surgical facemask, worn by employees, provides added protection to patients, employees, and visitors. All member hospitals of the Suburban Hospital Alliance of New York State offer the flu vaccine to employees. For employees choosing to forego vaccination, surgical masks are provided.

As a matter of standard practice, all Suburban Hospital Alliance hospitals enforce universally recognized precautions to prevent the flu. These include hand washing, the use of hand sanitizers placed conveniently throughout the hospital, as well as goggles, and gowns. In addition, all hospitals adhere to rigorous infection control guidelines and policies every day to ensure a clean environment for patients, staff, and visitors. Antiseptic wipes are located in patient rooms, workstations, hallways, and other treatment areas and are easily accessible to hospital employees responsible for sanitizing medical equipment and surface areas.

New Infant Sleep Regulations – In New York, new regulations went into effect November 18, 2016. The regulations require hospitals and birthing centers to distribute infant safe sleep information to all maternity patients.

Hospital Trustees Webinar – A new webinar series is being offered by the Healthcare Trustees of New York State with the goal of providing education to their members. The three 30-minute webinars can be played during a board meeting and/or accessed at a board member’s convenience. Topics covered include: Fiduciary Fitness; Recruitment; and Quality. Access the site and webinars [at www.htnys.org](http://www.htnys.org).

Winnable Battles Report – An updated report is now available on the Centers for Medicare and Medicaid Services (CMS) [website](#). Winnable Battles are public health priorities with large-scale impact on health and known effective strategies to address them. By identifying priority strategies, defining clear targets, and working closely with public health partners, significant progress has been made in the health burden from diseases and conditions targeted through Winnable Battles. The CDC has identified seven high-burden areas where an intense focus can lead to gains in a shorter timeframe. These include tobacco; nutrition, physical activity, obesity; food safety; healthcare-associated infections; motor vehicle injuries; teen pregnancy; and HIV. Obesity has consistently emerged as a high-priority area for New York State. The CDC report shows that progress in the area of nutrition/physical activity/obesity has been mixed. The site offers resources and metrics by which local public health planners and providers can measure progress related to Healthy People 2020 objectives.

Governor Signs Healthcare-Related bills including,

- A law establishing a new designation of Advanced Home Health Aide (AHHA). An AHHA, under the supervision of a registered nurse could administer routine prefilled medications, with certain exceptions. The State Education Commissioner, in consultation with the State Health Commissioner, will develop requirements for this designation.
- A law that permits donation of prescription drugs. This law permits a manufacturer, wholesaler, distributor, pharmacy, or hospital to donate and redistribute unused prescription drugs pursuant to regulations promulgated by the Health Commissioner.
- Legislation that allows hospital outpatient clinics and diagnostic and treatment centers to provide house calls in certain circumstances. The law takes effect May 15, 2017.

SPOTLIGHT ON: *Quality*



By Kate Warner, Director of Quality and Education

State Agencies Issue Dear CEO Letter Regarding Expectations for Emergency Mental Health Care

On November 15th, the New York State Department of Health (DOH) and the New York State Office Of Mental Health (OMH) issued a joint “Dear CEO” letter to Article 28 hospitals that aimed to “clarify the requirements and expectations of hospitals” as they relate to care for patients with emergency mental health needs. In the letter, the agencies warn hospitals that they could be violating federal and state regulations if they aren’t following the proper guidelines.

The letter reportedly comes as a result of ongoing disputes between hospitals with OMH licensed psychiatric units and those without units over where patients with mental health emergencies should be sent. The DOH and OMH feel that the reported disputes can significantly delay care for patients. The state agencies warn that “prolonged status determination” or “boarding” can be extremely harmful to patients experiencing a mental health emergency and can lead to deterioration of the patient’s condition and greater risk for restraint or seclusion.

The issue seems to be two-fold. Hospitals without on-call psychiatrists feel ill-equipped to provide care and reportedly worry that treating a patient without a formal mental health status evaluation and determination may violate Article 9 of the State Mental Hygiene Law and the patient’s civil liberties. Hospitals with inpatient psychiatric beds/units often don’t have available beds or are operating at capacity.

According to the letter, hospitals could be in violation of federal and state regulations if services are not provided in a timely and appropriate fashion. The agencies note that holding patients with mental health emergencies in the emergency department for an extended period of time may infringe on the patient’s right to receive quality care in a safe setting and may be a violation of EMTALA regulations. Similarly, refusing to accept patient transfers could also be a violation of the regulations as hospitals with specialized services are required to accept patients needing specialized care from those without the specialized services needed under EMTALA laws. However, the receiving hospital is only required to accept the patient if the care needed is beyond the capabilities available at the transferring hospital and if it has the capacity to accept the patient.

To address the issue of available beds, the letter states that if a hospital has addressed past occupancy issues by moving patients, calling in additional staff and borrowing additional equipment the hospital may be considered capable under EMTALA of providing services to patients even if they have already met the specialized occupancy limits.

To address the issue of internal capacity to perform mental health evaluations (i.e. on-call psychiatrist) the letter states that “all hospitals licensed by the DOH under PHL Article 28 have by virtue of their license the capability to conduct a proper mental health evaluation in conformance with Mental Health Law”. Furthermore, these hospitals have the ability to begin the involuntary

admission process. The 2 PC standard authorizes to physicians (non-psychiatrists) to assess an individual experiencing mental distress and make the determination for involuntary admission.

The agencies remind hospitals that their first obligation is to screen for an emergency medical condition (physical or mental) and that the need for inpatient psychiatric admission can't be determined until a mental health evaluation has been performed noting that not all psychiatric emergencies require psychiatric admission. The primary focus for initial care is to assess and stabilize the patient, something the DOH and OMH expect that all hospitals are capable of doing. They emphasize that mental health evaluations must not be delayed for any reason.

It is the expectation of DOH and OMH that hospitals will work together to develop plans to facilitate the

required care to ensure that the mental health needs are identified and addressed in an appropriate and timely fashion. Hospitals with OMH licensed psychiatric inpatient units that are at risk for boarding should be communicating with other providers in the community to avoid issues with transfer and better coordinate care for patients. These hospitals should also be developing plans for accepting requests for transfers that address instances when all of the beds may be full.

Hospitals on Long Island have expressed significant concern over the high volume of patients with mental health needs and the limited availability of inpatient mental health treatment programs and beds in the community an issue that surely contributes to the capacity issues referenced in the letter. Without proper post-acute placement options these issues will surely persist and become more complicated.

News from the Long Island Region

A Report on Nassau-Suffolk Hospital Council member hospital achievements and notable activities



Meeting the Triple Aim – *South Nassau Communities Hospital* was highlighted in the HANYS Innovation Spotlight, for a new proprietary software program aimed at reducing readmissions. Also spotlighted was *St. Catherine of Siena Medical Center*, for an effort to reduce medication errors through a pharmacist review program. You can read about both hospitals' achievements at www.HANYS.org/tripleaim.

Accredited Program – *Winthrop-University Hospital's* Child Life Program recently earned Clinical Internship Accreditation from the National Child Life Council. Winthrop is among a group of 14 prestigious programs across the nation, and one of only two in New York, to meet the stringent requirements of accreditation, which is a voluntary two-step process of self-study and external review.

If you have news to share about your hospital's achievements, please send to Janine Logan at jlogan@nshc.org

News from the Hudson Valley Region

A Report on Northern Metropolitan Hospital Association member hospital achievements and notable activities



National Ranking – *Orange Regional Medical Center* has been nationally recognized by U.S. News & World Report as a high performing hospital for treatment of heart failure and chronic obstructive pulmonary disease (COPD). The U.S. News analysis of hospitals includes data from nearly 5,000 centers across multiple clinical specialties, procedures and conditions. Scores are based on a variety of patient outcome and care-related factors including patient safety and nurse staffing.

Top Quality VA – The *VA Hudson Valley Health Care System* received the highest-possible rating from a quality-of-care scorecard created by the Department of Veterans Affairs. The newly reported ratings are based on numerous factors, including death and infection rates. The Hudson Valley VA medical center is the only one in New York to score five stars, and is among 14 out of 146 nationally with five stars for multiple rating periods.

Consumer Voice – The National Research Corporation’s 2016/2017 Consumer Choice Awards named *Vassar Brothers Medical Center* as a consumer-chosen hospital of choice for the 13th consecutive year.

Nursing Excellence – *NewYork-Presbyterian Hudson Valley Hospital* received national recognition for excellence in nursing from the American Nurses Credentialing Center’s Magnet Recognition Program® for a third consecutive time. Magnet recognizes healthcare organizations whose nursing staff consistently delivers superior patient care with the highest levels of professionalism and innovation.

Low Death Rates – This month, healthcare trade publication *Becker's Infection Control & Clinical Quality* listed *Orange Regional Medical Center* among the top 49 hospitals in the nation with the lowest death rates in the 30-days after hospital care for heart attack. Ratings are based on data from CMS' Hospital Compare website and represent data from July 2012 through June 2015, the most recent information available.

Baby-Friendly – Phelps Hospital received formal designation as a “Baby-Friendly® Hospital” by the World Health Organization (WHO) and the United Nations Children’s Fund (UNICEF), recognizing Phelps for offering new mothers the information, confidence and skills they need to succeed in breastfeeding and caring for their infants. Phelps is one of only two hospitals in the Hudson Valley and 16 in New York State to earn this designation.

If you have news to share about your hospital’s achievements, please send to Janine Logan at jlogan@normet.org.

NorMet CEO Tells Business Leaders Changes Ahead

Business leaders from Rockland County were eager to hear what NorMet and SHANYS president/CEO Kevin Dahill had to say about healthcare post-election. He addressed the members of the Rockland Business Association at a member luncheon on December 15, 2016 at the Crowne Plaza Hotel in Suffern, NY.

His response, “Whatever kind of government – Republican or Democrat – we are going to see some changes made.”

Many of those changes are driven by market forces, explained Dahill, referring to the flurry of consolidation that is taking place within the hospital and healthcare industry. Providers are entering into delivery and reimbursement structures that are predicated on value, which calls for more integrated and streamlined care. Providers, including hospitals, are working with pre and post-discharge providers to ensure that quality care is delivered and various metrics for reimbursement are met. This shift toward population-based health will continue because some pilots and trial arrangements have resulted in savings and improved health outcomes.

The reforms of a new administration may usher in changes to the Medicaid program by way of block grants to states. “Congress may put a cap on how much providers will get. The day of reckoning is coming,” said Dahill.

White Plains Hospital CEO Elected Chair of NorMet

Westchester resident and president/CEO of White Plains Hospital Susan Fox was named chair of the board of directors of the Northern Metropolitan Hospital Association (NorMet). The appointment was announced at NorMet’s November 16, 2016 board meeting. The two-year term expires January 1, 2019. The CEOs from each of the member hospitals comprise the board of directors.

Fox is an accomplished healthcare executive and leader with more than 25 years of hospital and health management administration experience. Prior to her appointment as CEO in 2015, Fox served White Plains Hospital first as senior vice president of administration, then as executive vice president and then as president.



Kevin Dahill (left) President/CEO Northern Metropolitan Hospital Association and the Suburban Hospital Alliance of New York State talks with attendee Justin Schwartz of Atlantic.



Susan Fox

Fox began her career as a pediatric intensive care nurse at New York Hospital in Manhattan. Today, she is a highly regarded healthcare leader, providing expert strategic leadership and vision to White Plains Hospital, while continuously working to enhance the quality of care and the patient experience.

Fox holds a Bachelor of Science in Nursing from Columbia University and a Master of Business Administration from Baruch College, Mount Sinai School of Medicine. She serves on the American Hospital Association-Regional Policy Board 2 and is a past president of the Metropolitan Health Administrators Association and New York Association of Ambulatory Care.

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NSHC Events & Meeting Reports

Corporate Compliance Committee – At the committee's fall meeting on November 15, Ms. Darwell provided a briefing on legal and regulatory issues, including changes in False Claims Act prosecution, the implementation of a nondiscrimination provision in the Affordable Care Act, and a federal clarification of acceptable charges for providing a patient with copies of his or her medical record. The group discussed the resumption of the Medicare RAC program and the backlog of cases in appeal.

Fiscal Policy Committee – The November 3 meeting of the Fiscal Policy Committee featured a presentation by Dale Baker of Baker Healthcare and Joe Krause of Hall Render on latest developments with the Medicare wage index adjustment program. Ms. Darwell provided briefings on the final rules governing reimbursement for hospital outpatient departments and physicians under the Medicare program.

Quality Committee – At the November 16 session, Senior research analyst Melissa Bauer from HANYS Solutions demonstrated the new quality metrics dashboard that will be available to membership hospitals. The committee also received updates from Ms. McCale on the new quality incentives for physician reimbursement under Medicare and the final Medicare outpatient payment rule for the 2017 fiscal year. Ms. McCale also walked the group through a recent Joint Commission exercise.

Revenue Cycle Committee – On November 4, the committee discussed plans to implement the Medicare Outpatient Observation Notice (MOON). It also received updates from Ms. Darwell on physician and hospital outpatient department payment changes, and the upcoming changes to the RAC program. NSHC's senior director for health insurance programs, Stacy Villagran, reported on plan and premium changes in the New York State of Health marketplace for 2017.

Long Island Health Collaborative – The Collaborative held a teleconference on December 15, recapping the PHIP staff's recent presentation at the NYS Health Foundation, The New York Academy of Medicine, and NYU Langone Medical Center's Department of Population Health's fourth annual Population Health Summit in NYC. The team gave an overview of the 2016 work of the Collaborative, provided 2017 meeting dates, and discussed upcoming agendas for both the Behavioral Health and Data workgroups.

HANYS/DOH Listening Sessions – SHANYS hosted the Hauppauge and Tarrytown stops on HANYS' listening session tour with DOH leadership on November 21 and December 1, respectively. More than 50 members expressed their concerns about Medicare Conditions of Participation (CoP) survey processes and interpretations, the need to streamline the Certificate of Need process to better reflect changes in the marketplace, and the ways that the overlapping regulatory structures of other state agencies make it more difficult to treat and appropriately discharge behavioral health patients.

Cybersecurity Education Program – A December 7 educational program for finance, compliance and IT officers focused on ways to mitigate the risks to health care institutions' finances and data integrity from third-party vendors and orchestrated attacks. Ruskin Moscou partner John Clooney discussed topics including HHS's new HIPAA and HITECH enforcement mechanisms, best practices for business associate agreements and cyber-insurance requirements.

Changes to Nondiscrimination Laws for Health Providers – Federal regulations this spring established expanded requirements for providers to implement nondiscrimination policies and notify patients of their rights under the law. The Department of Health and Human Services also affirmed that the law prohibits discrimination based on gender identity. NSHC hosted an educational program on December 15 for clinicians, compliance and human resources officers that covered both the legal requirements for compliance and best practices for creating a comfortable environment for transgender patients and employees.

NSHC 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 – The Heart Center
- St. Joseph Hospital

Eastern Long Island Hospital
 John T. Mather Memorial Hospital
 Nassau University Medical Center
 Northwell Health

- Franklin Hospital
- Glen Cove Hospital
- Huntington Hospital
- North Shore University Hospital
- Peconic Bay Medical Center
- Plainview Hospital
- Southside Hospital
- Syosset Hospital

Stony Brook University Hospital
 Southampton Hospital
 South Nassau Communities Hospital
 Veterans Affairs Medical Center
 Winthrop-University Hospital

NorMet Member Hospitals

Blythedale Children's Hospital
 Bon Secours Charity Health System

- Bon Secours Community Hospital
- Good Samaritan Hospital
- St. Anthony Community Hospital

Burke Rehabilitation Hospital
 Catskill Regional Medical Center
 Ellenville Regional Hospital
 HealthAlliance Hospital

- Broadway Campus
- Mary's Avenue Campus

Helen Hayes Hospital
 Keller Army Community Hospital
 Montefiore Health System

- Mt. Vernon Hospital
- New Rochelle Hospital

The New York Presbyterian Hospitals

- Lawrence Hospital Center
- Hudson Valley Hospital
- Westchester Division

Northern Dutchess Hospital
 Northern Westchester Hospital
 Orange Regional Medical Center
 Phelps Memorial Hospital Center
 Putnam Hospital Center
 St. Joseph's Medical Center/St. Vincent's Hospital
 St. Luke's Cornwall Hospital
 St. Vincent's Westchester (Division of St. Joseph's Medical Center)
 Vassar Brothers Medical Center
 VA Hudson Valley Health Care System
 Westchester Medical Center Health Network

- Westchester Medical Center
- MidHudson Regional Hospital

White Plains Hospital