



## Progress Notes

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### Inside This Issue

- [Tax Reform Passes, Eliminates ACA's Individual Mandate](#)
- [Insurance Marketplace Open for Business](#)
- [Year-End Spending Bill Excludes Cost Sharing Reduction Payments, Includes CHIP Extender](#)
- [News from the Hudson Valley](#)
- [News from Long Island](#)
- [Committee Updates](#)
- [Upcoming Events](#)

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## Tax Reform Passes, Eliminates ACA's Individual Mandate

*Hospital industry fears more uninsured and rising insurance premiums*

The Tax Cuts and Jobs Act just approved by the Senate and House now moves on to the president who is expected to sign the legislation. The legislation comes with a \$1.5 trillion price tag. Many economists question whether the legislation will promote enough growth in the economy to pay for itself, leading healthcare industry leaders concerned that the Medicare and Medicaid programs could be likely targets for cuts.

The legislation eliminates the Affordable Care Act's (ACA) individual mandate penalty, beginning in 2019. According to the Congressional Budget Office (CBO), repeal of the individual mandate could increase the number of uninsured Americans by four million in 2019 and 13 million by 2027, five million of whom would be Medicaid beneficiaries. In addition to increasing the number of uninsured, the removal of the individual mandate will affect those with insurance. The CBO estimates that insurance premiums in the individual market would increase by about 10 percent in most years over the next decade because the individual mandate fines are designed to nudge healthy people to purchase coverage, which helps curb premiums for everyone. The individual mandate is vital to ensure the marketplace functions and is stable. Additionally, with more uninsured, those with insurance – whether purchased independently or provided by an employer – would see their premiums rise as they unknowingly offset society's expenditures for treating the uninsured.

The final legislation does not make changes to tax-exempt status for private activity bonds. These are a critical vehicle for New York's not-for-profit hospitals and health systems to secure lower-cost capital for needed infrastructure and technology advancements. Hospital buildings in New York are some of the oldest in the nation. However, the bill eliminates hospitals' ability to execute "advanced refunding" or tax-exempt financing of these bonds.

The legislation maintains the medical expense deduction and reduces the threshold for deducting medical expenses from 10 percent to 7.5 percent of a patient's adjusted gross income for two years. Those incurring long-term care expenses would have been especially hard hit, if the deduction had been totally eliminated.

The legislation swells the nation's debt by \$1.5 trillion. This places pressure on lawmakers to find ways to chip away at that debt in future months. Medicare and Medicaid are likely targets. This is especially troublesome at a time when baby boomers are entering retirement in unprecedented numbers – about 500,000 are added to the Medicare rolls each week.

## **Year-End Spending Bill Excludes Cost Sharing Reduction Payments, Includes CHIP Extender**

Congress passed a continuing resolution, averting a government shutdown that loomed come midnight December 22, 2017. The measure funds the government until January 19, 2018. The spending bill does not include funding for cost-sharing reduction (CSR) payments and a reinsurance fund. It does include language to extend funding for the Children's Health Insurance Program (CHIP) through March 31, 2018 in the form of emergency funding for states with the most urgent financial situation concerning their CHIP program. Funds for CHIP expired September 30, 2017. New York State can fund the program into the first quarter of 2018. Without re-authorization, nearly 300,000 children in the state could lose insurance, including 99,119 children in the nine counties located throughout the Suburban Hospital Alliance of New York State regions.

The CSR payments made to insurers selling on the health insurance exchanges were halted by the Trump administration on October 12, 2017. For many months prior, the administration threatened to stop the payments. These payments help low-income Americans afford their co-payments and deductibles. The permanent loss of CSR payments means New York would lose \$900 million in funding for the state's Essential Health Plan. The Essential Plan is available to low-income New Yorkers who earn too much to qualify for Medicaid, but not enough to afford commercial insurance products sold on the exchange. Last year, 136,324 individuals in the nine Suburban Hospital Alliance counties purchased an Essential Plan from New York's marketplace, with about 60 percent of enrollees residing in Nassau and Suffolk counties.

Hopefully, lawmakers will include CSR payments when they debate the next stop-gap spending plan that will come due January 19, 2018. Bi-partisan insurance market stabilization legislation was introduced by Senators Lamar Alexander and Patty Murray in September. It guaranteed cost sharing reduction payments for two years, in addition to other changes aimed at stabilizing the insurance markets.

However, regarding the CSR Payments, many insurers factored premium increases into their silver plan offerings for 2018 to guard against the financial impact of lost CSR payments. Advance premium tax credits, which are paid to low-income Americans to help them afford their monthly premiums, rise dollar-for-dollar with silver premium rates and should protect low-income Americans from steep premium rate hikes. Middle and higher-income Americans would feel the brunt of the premium increases because the tax credits phase out at higher income levels. Ironically, the federal government could find itself spending more on advance premium tax credits than it saves by eliminating CSR payments. According to a Kaiser Family Foundation study, 84 percent of marketplace enrollees received premium tax credits in 2017.

Legislation for a reinsurance fund would give states money to set up funds to help insurers reduce costs for customers with serious, costly illnesses. Many of these individuals are those living with pre-existing conditions.

Importantly for hospitals, the bill includes language to prevent automatic spending cuts that would be required to offset the tax bill's effect on the nation's debt. Under the statutory PAYGO rules, \$25 billion in Medicare cuts would have occurred because of the tax bill's passage.

## **Insurance Marketplace Open for Business**

Individuals may enroll through January 31, 2018

**Enroll online, by phone, or in-person with the assistance of a certified navigator.**

Visit [www.coverage4healthcare.org](http://www.coverage4healthcare.org) for a listing of enrollment sites throughout Nassau and Suffolk counties, or call 631-656-9783.

You can also visit the New State of Health's Official Health Plan Marketplace at [www.nystateofhealth.ny.gov](http://www.nystateofhealth.ny.gov) or call the state's toll-free number, 855-355-5777.

Open enrollment for individuals wishing to purchase health insurance under the Affordable Care Act (ACA) exchange continues through January 31, 2018 in New York State. For coverage that begins February 1, 2018, consumers must select a plan and pay the first premium by January 15, 2018.

The Essential Plan remains a very popular option for those looking for affordable insurance. Despite threats to CSR payments, which help fund the Essential Plan, consumers continue to sign up in great numbers for the plan.

On Long Island, the Suburban Hospital Alliance regional affiliate the Nassau-Suffolk Hospital Council is one of three state-appointed navigator agencies for the region. The Hospital Council maintains a user-friendly, bilingual website – [www.coverage4healthcare.org](http://www.coverage4healthcare.org) - that lists enrollment sites and dates and other helpful information.

In the Westchester and Hudson Valley area, state certified navigator agencies are: Community Service Society of New York, Maternal Infant Services Network of Orange, Sullivan and Ulster Counties and the Westchester County and the Rockland County Departments of Health

New York's health insurance marketplace continues to offer a competitive array of health plans for the individual market in the Nassau and Suffolk regions, as well as in counties in the Hudson Valley region. New York State, in general, has not been plagued by a paucity of insurers in any particular county, as has occurred in other parts of the country.

## News Briefs

**HANYS Pinnacle Award**– HANYS issued a [call for nominations](#) for the 2018 Pinnacle Award for Quality and Patient Safety. The award recognizes member organizations that are playing a leading role in improving healthcare delivery in New York State. HANYS encourages members to participate in the [applicant webinar](#) on January 4 and to [apply for the award](#) by February 1.

**NSHC Healthcare Voices Campaign Used by State for Outreach** – The NSHC Healthcare Voices campaign features four Long Islanders and their stories about insurance loss and gain. The stories are heartwarming and heart rendering. The state health department recently reached out to the Hospital Council and inquired about featuring one of the story subjects – Ruth Zaporta - in digital spots. Ruth, a breast cancer survivor, widower, and single mom to two children, agreed to share her compelling story with the state in an effort to prompt others to enroll in affordable insurance offered through New York's marketplace.

Ruth first accessed insurance in 2015 through the NSHC insurance enrollment program, which is overseen by Stacy Villagran. Ruth credits the Affordable Care Act insurance offered by the New York State of Health marketplace with saving her life. And, it continues



to allow her to see a hematologist and oncologist regularly. Read more about [Ruth's story](#).

Click on these links to view the digital spot, featuring Ruth, in both English and Spanish:

<https://info.nystateofhealth.ny.gov/4millionreasonsgroup2>

<https://info.nystateofhealth.ny.gov/4millionreasonsspanish1>

<https://info.nystateofhealth.ny.gov/4millionreasonsspanish2>

Another one of NSHC Healthcare Voices stories was featured in the New York State Navigator Program print newsletter. Tracy Baric, who works but does not receive insurance from her employer, was denied Medicaid renewal because her household income increased due to a recent marriage. She knew she could not afford insurance and believed she would have to go without coverage. When she contacted an NSHC enroller, she learned that even with the combined income, she still fell within public insurance parameters and was able to purchase an Essential Plan. Once insured, she was able to resume vital medical testing. Read more about [Tracy's story](#).

**Flu Virus Declared Prevalent; Triggers Flu Mask Regulation** – Flu virus was declared prevalent by the New York State Health Commissioner on December 13, 2017 and hospitals on Long Island and throughout the Hudson Valley are taking additional steps to prevent the spread of flu, including enhanced efforts to vaccinate all employees and distribution of surgical facemasks. Worn by employees, masks offer a physical barrier to flu transmission. 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 hospitals on Long Island and in the Hudson Valley offer the flu vaccine to all employees and also provide employees with surgical facemasks, as required New York State public health law.

“Flu prevention is a priority at all hospitals on Long Island and in the Hudson Valley. Hospital employees work every day to lessen the spread of flu virus by adhering to strict infection control practices and prevention guidelines,” said Kevin Dahill, president/CEO of the Suburban Hospital Alliance of New York State, the organization that represents hospitals in the nine counties east and north of New York City. “Hospitals, nursing homes, and other facilities must also document the number and percentage of personnel vaccinated against the flu to state and federal authorities.”

## Spotlight on Quality

### OCR Releases Guidance on Mental Health and HIPAA for Patients, Caregivers and Providers

*By Kate McCale, Director of Quality and Membership Services, Nassau-Suffolk Hospital Council*

On December 19, the Department of Health and Human Services, Office for Civil Rights (OCR) released guidance intended to provide clarity on when the health information of a child or an adult with mental illness or behavioral health issues can be shared with the patient's caregivers. Information on a patient's mental health condition and treatment is, like most health information, safeguarded by the The Health Insurance Portability and Accountability Act (HIPAA). The OCR recognizes that for patients with mental health and substance abuse issues, the application of the privacy law can be confusing as a patient's

ability to provide consent or object to information-sharing may be compromised by their state of consciousness or the nature of their condition. It can also be paramount to the safety of these patients and to those around them that caregivers are provided with the information needed to keep them safe. With that in mind, the OCR addresses patients, caregivers and the general public in a series of corresponding briefs and FAQs.

In the guidance documents, the organization explains that a patient's general location and condition may be disclosed to a family member or friend if the patient has been notified and given the chance to object. In an emergency situation or if the patient is incapacitated, the provider can use their professional judgement to determine if sharing information is in the patient's best interest. Incapacitation can include unconsciousness, temporary psychosis or the influence of drugs and alcohol. Providers are advised to take into account the patient's prior preferences and the current circumstances and only share information related to the role the family member or friend plays in the patient's care. The OCR notes that decision-making capacity may change throughout the course of care and that if the patient regains their capacity, they must be given a chance to object to information-sharing. If at any time during their care a patient poses a threat to their safety or the safety of others, nurses and doctors may disclose information to anyone that may prevent or lessen the threatened harm regardless of whether or not the patient has consented or objected. The OCR notes that in some cases, state privacy laws may preempt this provision.

Over the last couple of years, patient interest groups have claimed that over interpretation of HIPAA laws have adversely impacted patient care and a friend or family member's ability to assist the patient. The guidance comes at a critical time in public health as the number of patients with mental health needs continues to rise and healthcare providers respond to the national call to end the opioid epidemic. [Click here](#) to access the OCR's guidance.

#### GOVERNOR SIGNS "BSN IN 10" BILL INTO LAW

On December 19, Governor Cuomo signed the long-advocated for "BSN in 10" bill into law. The new law will require all registered nurses to obtain a baccalaureate degree in nursing within 10 years of licensing. It allows for a one-year extension for nurses experiencing difficulty in finishing their degree and establishes a commission to review barriers of entry into nursing and the availability and affordability of baccalaureate programs. Current nurses and students enrolled in nursing programs will be grandfathered in and provided exemptions.

The allied associations have advocated for several years that as the patient population in hospitals becomes increasingly more complex and severe, highly trained nurses will be needed to provide the highest quality care and ensure patient safety.

The law will become effective 18 months from date of enactment.



News from the  
**Hudson Valley**

[Click here for Northern Metropolitan Hospital Association member listing](#)

**New Baby** – Baby-Friendly USA announced that *HealthAlliance Hospital: Broadway Campus* has received recognition as a Baby-Friendly Designated birth facility, the first hospital to earn the designation in Suffolk County. Based on the "Ten Steps to Successful Breastfeeding," this international award recognizes birth facilities that offer breastfeeding mothers the information, confidence, and skills needed to successfully initiate and continue breastfeeding their babies.

**Sleep Lab Recertified** – The Sleep Lab at *Vassar Brothers Medical Center's* Center for Sleep Medicine, located in the Fishkill Medical Mall, has received a five-year reaccreditation from the American Academy of Sleep Medicine.

*If you have news to share about your hospital's achievements, please send to Janine Logan at [jlogan@normet.org](mailto:jlogan@normet.org).*



**Meeting the Triple Aim** – Highlighted this month in the HANYS Innovation Spotlight for meeting the Triple Aim was *Good Samaritan Hospital Medical Center*, for their Healthier Families Program, where Good Sam works with an area school district and community wellness alliance to help prevent and reduce obesity. Read more about it at [www.hanys.org/tripleaim](http://www.hanys.org/tripleaim).

**Merger** – *Northwell Health* President & CEO Michael J. Dowling and *Mather Hospital* President Kenneth Roberts signed an agreement for Mather to become a full member of the health system. The merger was approved in late November by both the Mather Board of Directors and by the Northwell Health Board of Trustees, and takes effect in January.

**Notable Award** – *South Nassau Communities Hospital* is the only hospital on Long Island to achieve Healthgrades® America's 100 Best Hospitals for Orthopedic Surgery™, Orthopedic Surgery Excellence Award™, and 5-star ratings for Total Knee Replacement, Total Hip Replacement and Hip Fracture Treatment in 2018.

**Advanced Certification** - *St. Charles Hospital* is the first hospital in Suffolk County to earn Advanced Certification for Total Hip and Total Knee Replacement Programs from The Joint Commission, a review which focused on transitions of care from the pre-surgical orthopedic consultation to the intraoperative, hospitalization or ambulatory surgical centers admission, rehabilitation activities and follow up visit with the orthopedic surgeon.

*If you have news to share about your hospital's achievements, please send to Janine Logan at [jlogan@nshc.org](mailto:jlogan@nshc.org)*

Committee Updates

**Human Resources:** The Human Resources committee met on Friday, December 1. At the meeting, members were briefed on proposed regulations for “call-in” pay and recent court rulings on the “Thirteen-Hour Rule” for home care workers. Members were informed of a backlog in the State Education Department’s professional misconduct investigations for nurses. Those in attendance discussed their progress on preparing for the New York State Paid Family Leave program implementation

**Behavioral Health Workgroup:** At their December 7 meeting, members of the behavioral health workgroup discussed a meeting that NSHC had with the OMH Long Island field office to review the results of the behavioral health member survey conducted in May 2017. Members discussed plans for obtaining Pilgrim State Psychiatric triage data for their individual hospitals for NSHC to analyze extended wait times reported by members in transferring their patients to the state facility and develop advocacy strategies based on data presented. The Administrative Action Reporting Mechanism system (AARM), a new requirement for submission of administrative actions, was reviewed and discussed its administrative impact on workflow.

## Upcoming Events

### **Advocacy Day on March 7, 2018: Save the Date**

**Please save the date**

Your participation is critical! We will provide more details as we get closer to the date.

Additionally, on March 6—the day before Advocacy Day—HANYS will host an executive orientation program at our offices for member chief executive officers and other executives who are either newer to their current role or simply interested in learning more about HANYS and our resources. The program is an opportunity to meet with HANYS’ executive team, as well as our policy and business leaders. HANYS will also host an association cocktail reception that evening. More details on the March 6 executive orientation program and cocktail reception will follow in the coming months.