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November 12, 2024

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Dear New York Congressional Delegation:

The Healthcare Association of New York State, on behalf of our member nonprofit and public hospitals, nursing homes, home health agencies and other healthcare providers, thanks you for your commitment to supporting patient access to care. As you return to Washington, we ask that you work to address several critical issues affecting hospitals and health systems and the patients they serve.

New York's hospitals and their communities need your support to preserve access to critical healthcare services. In a recent fiscal survey of hospitals across the state conducted by HANY and our regional association partners, 75% of hospitals projected negative or unsustainable operating margins for 2024. Hospitals statewide project a median 0.0% operating margin.

Most New York hospitals cannot achieve the operating margins needed to maintain and enhance access to patient care, attract and retain a skilled workforce, invest in technology and research, secure capital funding and modernize their facilities. Still on the brink, they cannot absorb any harmful cuts and policies. Such proposals threaten to put New Yorkers' access to healthcare services further at risk.

With these serious challenges in mind, HANY urges Congress to address the following hospital and health system priorities.

Prevent devastating Medicaid Disproportionate Share Hospital cuts

The DSH program helps to preserve access to care at hospitals and health systems treating our most vulnerable populations. This funding supports access to services and, in some cases, helps hospitals remain operational. All hospitals in New York state receive some level of Medicaid DSH funding, depending on need.

Congress must prevent devastating cuts to the Medicaid DSH program set to go into effect Jan. 1, 2025, which, if left unaddressed, will reduce New York's DSH program by about \$1.4 billion in the first year, a reduction of nearly 60%.

Amend the Medicaid DSH hospital cap calculation

"DSH caps" determine the maximum amount of federal DSH funding a hospital can receive. Section 203 of the Consolidated Appropriations Act of 2021 enacted a substantial change in how hospitals' specific DSH caps are calculated. The provision removes financial losses (or gains) for services provided to Medicaid dual-eligible patients.

As a result, many New York public and safety net hospitals will see a substantial reduction in the amount of Medicaid DSH funding they can receive. Collectively, these hospitals are expected to be **cut by nearly \$300 million per year starting in 2025**.



Congress must pass the *Save Our Safety-Net Hospitals Act (H.R. 9351)*, which would preserve a hospital's ability to include Medicaid-Medicare dual-eligible and some other dual-eligible patients in their DSH caps and prevent substantial cuts to many of New York's public safety net hospitals.

Reject harmful site-neutral payment and new outpatient National Provider Identifier policies

"Site-neutral" policies fail to recognize the fundamental differences between hospital outpatient departments and physician practices. Site-neutral policies proposed in Congress would result in billions of dollars in cuts to services provided in hospital outpatient departments and threaten Medicare beneficiaries' access to care in communities across the state.

Similarly, a proposal in Congress would upend how hospitals bill for outpatient services by requiring the use of a separate National Provider Identifier for each HOPD and require an attestation that the provider is compliant with the Medicare provider-based regulations. An NPI is a unique 10-digit code that healthcare providers use for billing and administrative purposes.

Hospitals are already transparent about how they bill CMS and private payers by using codes on outpatient claims to indicate the location where a healthcare service is performed. Imposing new unique identifiers and attestations every two years would only add to hospitals' administrative requirements and costs for compliance, with no defined or direct benefit to patients. It would also empower health plans to impose their own site-neutral payment reductions on hospitals, undermining hospitals' already weak financial condition.

Congress must reject harmful site-neutral policies and an unnecessary NPI requirement that undermine patient access to care.

Extend pandemic-era telehealth waivers and Acute Hospital at Home programs

During the COVID-19 pandemic, telehealth flexibilities enabled providers to maintain continuity of care and keep patients and staff safe. Since the pandemic, hospitals and health systems have applied these telehealth flexibilities to patient-centered care approaches that provide high-quality outcomes.

Similarly, the Medicare Acute Hospital Care at Home program enables eligible patients to receive safe hospital-level care at home. Patients may receive services such as remote monitoring, telehealth consultations and in-home visits. Treatments can include IV medications and physical therapy.

These programs help to reduce hospital overcrowding, minimize the risk of communicable diseases, and provide personalized care, enhancing patient comfort and satisfaction. Absent congressional action, the current waivers allowing for these services will expire on Dec. 31. **Congress must extend current telehealth flexibilities and the Acute Hospital Care at Home program before the end of 2024.**

Invest in and protect the healthcare workforce

New York's hospitals and health systems are facing unprecedented challenges in recruiting and retaining healthcare professionals in clinical and non-clinical roles, leading to critical staffing shortages that threaten patient access to care.

The pandemic left many healthcare workers exhausted and burnt out, prompting them to leave the field at a time when the pipeline of new professionals is insufficient to meet growing demand. With the United States facing a shortage of up to 86,000 physicians in the next 12 years, now is the time to bolster the physician workforce and meet the needs of our aging and growing population.

Congress must invest in Medicare Graduate Medical Education by passing the *Resident Physician Shortage Reduction Act* (H.R. 2389/S. 1302).

Hospitals across the nation are reporting that more healthcare workers are being threatened or seriously injured by patients or visitors. In addition to following rigorous workplace safety regulations and accreditation standards, hospitals and health systems across New York have launched robust initiatives to create safer and more respectful environments. But more needs to be done. **Congress must pass the *Safety from Violence for Healthcare Employees (SAVE) Act* (H.R. 2584/S. 2768)**, which would make it a federal crime to assault or intimidate a hospital employee and would establish a federal grant program to augment hospitals' efforts to reduce violence.

Extend the enhanced low volume hospital adjustment

The low volume hospital adjustment is a payment adjustment for hospitals with fewer than 1,600 Medicare discharges and further than 15 miles from the nearest like hospital. These payments are necessary to help small, geographically isolated hospitals that cannot achieve economies of scale.

Currently, 20 hospitals in New York state depend on the LV adjustment to remain operational. **Congress must extend or make permanent the enhanced LV adjustment before Dec. 31, when the program is set to expire.**

Prevent changes to the 340B Drug Pricing Program

The 340B Drug Pricing Program allows certain eligible healthcare organizations, known as "covered entities," to stretch scarce financial resources by purchasing drugs at discounted prices from manufacturers. Importantly, the 340B Drug Discount Program comes at no cost to taxpayers and represents a small fraction (3.1%) of drug industry revenue.

Savings from these discounts allow covered entities to provide more comprehensive services to the nation's most vulnerable patients while mitigating the losses these providers experience due to chronic underpayments from public payers like Medicare and Medicaid. **Congress must protect the 340B Drug Pricing Program from harmful legislative and regulatory changes and push back on actions by drug manufacturers that limit access to the program.**

Hold health plans accountable

In our statewide survey, hospitals reported insurers across all payer types, including Medicare Advantage, are increasingly imposing aggressive policies and practices like prior authorization requests and claims denials that negatively impact patient care, place undue administrative burden on providers and add unnecessary costs to the healthcare system.

Sixty-three percent of hospital respondents report hiring or seeking more staff to address these increasing insurer actions. Over one-third project that these actions by health insurers will reduce their 2024 operating revenue by 5% or more, equating to \$1.3 billion or more in lost revenue that these hospitals would have otherwise used to sustain and invest in patient care.

Congress must pass the *Improving Seniors Timely Access to Care Act* (H.R. 8702/S. 4532) to streamline the prior authorization processes in the Medicare Advantage program.

Avert statutory PAYGO Medicare 4% sequester by Jan. 1, 2025

The statutory pay-as-you-go Medicare sequester is a budget mechanism that triggers automatic spending cuts to offset any increase in the deficit caused by new legislation. For Medicare, this means providers will face a 4% reduction in reimbursement rates, further straining already cash-strapped hospitals and threatening access to care for patients.

Congress must address statutory PAYGO cuts set to take effect on Jan. 1, 2025. Otherwise, New York's hospitals will face a \$590 million reduction in Medicare reimbursements in calendar year 2025, alone.

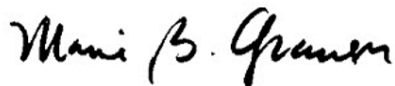
Expedite distribution of FEMA reimbursement funds

Hospitals across New York continue to face long delays in reimbursement from the Federal Emergency Management Agency's Public Assistance Program for extraordinary expenses incurred during the COVID-19 pandemic. Recent natural disasters have contributed to these delays as FEMA's funding rapidly diminished and the agency had to implement guidance for immediate needs funding.

Congress must ensure that FEMA has the funds necessary to reimburse hospitals and health systems for their heroic response to the COVID-19 pandemic and respond to future disasters. Congress must also push FEMA to expedite the distribution of these Public Assistance Program funds to these healthcare providers.

HANYS stands ready to serve as a resource for you and your staff as you work in Congress to serve your constituents. If you have questions, please contact Cristina Batt, senior vice president, federal policy, at cbatt@hanys.org or 202.488.1272 or Amanda Ferguson, senior director, federal relations, at aferguson@hanys.org or 202.488.1276 in our Washington, D.C. office.

Sincerely,

A handwritten signature in black ink that reads "Marie B. Grause". The signature is written in a cursive, flowing style.

Marie B. Grause, RN, JD
President