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STATE UPDATE: Proposed Legislation Seeks Improved Regs for Hospital-Based Observation Care

The 53 member hospitals of the Suburban Alliance of New York State LLC (SHANYS), which includes all hospitals on Long Island, recently voiced their support for legislation (S.7031) introduced by Senator Kemp Hannon pertaining to observation care and observation units. Observation care is an interim level of care that is typically utilized when it cannot safely be determined whether a patient can be discharged or should be admitted to inpatient care. Currently, state regulations and federal regulations do not align, which has deterred many hospitals from implementing observation care, though in some circumstances that may be the most appropriate level of care at which to treat patients. Senator Hannon's legislation, prompted by discussions with the Suburban Alliance hospital leaders, would correct this.

State regulations finalized in January require that observation care be provided in a discreet unit, under the direction of the emergency department, with a specific designation of beds for the purpose of providing observation care. This presents problems for many hospitals already providing observation care under Medicare rules, which allow hospitals to utilize beds on existing units that best meet patients' clinical needs, and would bar others from establishing observation units due to costs and physical plant restraints. The state also limits the time period in which a patient can be treated in an observation unit to 24 hours. Senator Hannon's bill extends the time period to 48 hours, consistent with Medicare regulations.

The conflict between state and federal rules places hospitals at risk of non-payment from Medicare. Medicare auditors are increasingly denying reimbursement for short inpatient stays, for which a patient could have more appropriately and less expensively been treated in observation status. Long Island hospitals have lost millions due to these conflicting regulations.

Other Pending Bills: These include bills that further strengthen managed care reforms and streamline telemedicine payment and credentialing. The legislature is expected to debate these and other issues during the remaining weeks of the 2012 legislative session.

Medicaid News: State Medicaid spending for fiscal year 2011 – 2012 finished $14 million below the $15.3 billion Medical global spending cap, according to the Department of Health. The cap was negotiated last year as part of a two-year budget deal. The second year of the cap and related provisions of that budget agreement began April 1, 2012.

FEDERAL UPDATE: Budget Constraints, Deficit Reduction Influencing Washington's Agenda

Hospital advocates say they are preparing for tough negotiations with Washington lawmakers who have one objective in mind – reducing spending. This week the GOP House Budget Committee forwarded a plan to cut health care and social service programs, although cuts in this plan are smaller than the ones proposed in the broader House budget blueprint passed in March. Adding to the fiscal restraint fervor are the expiring Bush tax cuts and the Social Security payroll tax holiday. Both sunset at year's end. In addition, the nation's doctors once again will face a steep pay cut come January 1, 2013, unless Congress acts. A permanent fix to the Medicare physician payment formula is desperately needed. Both physicians and hospitals agree on this point. However, hospitals are on guard against any efforts to offset the "doc fix" through reimbursement cuts to hospitals. Finally, hospitals are bracing for two-percent across-the-board Medicare "sequestration" cuts that automatically kick in January 2013. These provider cuts and defense budget cuts were set in motion last fall by the failure of the "Super Committee" to reach a deficit reduction agreement. There will be increased pressure to shift "sequestered" cuts from defense to health care. Hospital leaders from suburban regions met with members of the congressional delegation in Washington this week to protest additional cuts.

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