URGENT ACTION NEEDED: GIVE SAFETY-NET HOSPITALS THEIR FAIR FUNDING

What We Need to Happen?

It is critical for the State Senate and the Assembly to adopt the legislative changes proposed in language put forward by the coalition effort in their one house budget bills so that it can be subject of negotiations with the Governor before adopting the final state budget. Failing this effort, the legislative language proposed should be adopted as a stand-alone bill post adoption of the budget. It is incumbent on the Governor to sign these bills.

Background

A draft report from Indigent Care Workgroup was issued on February 2019. There are several important descriptions of the current status and methodology for distribution of ICP funds in this final draft. The discussion of the meetings of the ICP Workgroup are comprehensive, but miss some very critical points. Some of the important points to be made in response to this final draft are:

The Workgroup was convened pursuant to a side letter added to the 2018 state budget with the goal of developing proposals for a new methodology for distribution of the ICP funds in time to be considered for the Governors' proposed budget.

These deliberations clearly had not influenced the proposed budget, as there were no recommended changes in the ICP methodology. Although described later, the Governor's 30-day amended budget appears to have adopted some changes.

The Final Draft appears to underplay some key points of discussion and deliberation.

In addition to stressing the need to remove the "collar" the discussion also focused on moving funding to safety net and other financially troubled hospitals. This was also true in the majority of the public testimony that was allowed in two of the meetings; one in Albany and the other in New York City. There was also stress by several members on the potential negative impact of the proposed public charge rule which could once again increase the numbers of uninsured residents of the state.

Another key discussion point, although not unanimously agreed to, focused on the need to meet the language of the ACA in relation to DSH/ICP language on funding distribution. Some

stressed that the state was in violation of this language by continuing to use some of the funding to pay for bad debt. Others claimed that was not the language of the requirement.

The report summarizes the three main proposals presented to the Workgroup by member organizations. Two of the proposals meshed and supported each other -- the H+H and the NYSNA proposals. There were serious recommendations for changes in the distribution of funds. The other, the HANYS proposal, although acknowledging some need to move funding to the safety net, maintained the "collar" and limited the moving of funds.

The report also minimizes the amount of agreement and support for the H + H proposal which was actually drafted, and supported by, the community organizations and two of the three union members of the Workgroup. So, in reality, ten of the 19 members of the Workgroup expressed support for the H and H proposal. Even though there was not consensus, key members and the numbers in support should have been acknowledged in descriptions of these proposals.

The Need for Change

There is a strong need to address major changes in the current distribution methodology in the state used to distribute the ICP funding. The language of the ACA is clear, at a minimum, in prohibition of using the ICP funding to pay for bad debt. New York State's formula continues to use some of the funding, because of the collar, to pay for bad debt. This must change in order to meet the federal law requirements, but even more importantly, to ensure that these important dollars are used to bring more equity into the distribution of dollars to meet the needs of safety net and financially troubled hospitals, but more importantly to meet the needs of uninsured and Medicaid patients to access quality services at their community hospitals.

The inequities in the current system were pointed out in the NYSNA paper which identified resource rich institutions projected to continued receive ICP funding. As one example, Crain's Health Pulse New York, February 14, 2019, headlined an article with "NYU Langone earned $153 million in Q1" for the hospital in Manhattan and in Brooklyn (the former Lutheran Medical Center). The system reported an 12.3% operating margin. up from a 4.2% margin. According to state documents distributed at the Workgroup meetings, NYU is scheduled to receive more than $50 million in ICP funding this year. There are several other institutions that are resource rich but scheduled to receive ICP dollars. The inequities in this program are serious and make for a very flawed funding mechanism.

The Governor's 30-day budget amendment proposed several changes to the language in the initial budget. The proposal includes a reduction in the voluntary hospital pool by $275 million in response to proposed budget problems and the need to reduce the Medicaid budget. The "collar" was not extended. Importantly, awards to hospitals with margins greater than 2.98% and $68 million would get limited funding for the ICP pool, affecting hospital systems like NYU described above -- a recommendation made by NYSNA.

The last paragraph of the Department of Health's draft report summarized the critical factors to be considered even though it was not a final recommendation, nor was it included in the Governor's budget or the 30-day amendment.

> *"In making decisions about indigent care funding allocations, policymakers must be cognizant of potential changes in federal policy that are expected to adversely impact New York, and that first and foremost distribution methods must consider the interest of patients and their access to health services, and safeguard the hospitals that care for these patients regardless of whether the hospital is an urban or rural area of the state."*

Conclusions and Recommendations

By insisting on a consensus rather than even a majority opinion by Workgroup members, the report makes no recommendations, therefore leaving the Governor to let another year go by without serious changes in the ICP distribution methodology.

This is not acceptable to the coalition effort that supported two of the proposals presented to the Workgroup. This is the year that a major change must be made in the distribution of the ICP funding for hospitals. Considering the changes proposed to federal DSH distribution and the impact of the proposed "public charge" rules with an increase in the number of uninsured, this is the year for change

ACTION IS CRITICAL AND NEEDED NOW! The Legislature needs to fix the inequities in hospital ICP and DSH funding by ending the ICP transition collar and adopting legislation to allocate DSH and ICP funds in NYS to true safety net hospitals and the patients they serve. Thus, it is critical for the State Senate and the Assembly to adopt the legislative changes proposed in language put forward by the coalition effort in the important pieces to be included in the one-house bills and/or to be adopted in free-standing legislation are:

- Eliminate the ICP transition collar;
- Increase Medicaid reimbursement rates for safety net and or at risk/needy hospitals;
- Expand existing programs for financially distressed hospitals to ensure no harm to safety net or at risk/needy hospitals;
- Leverage public hospitals' access to federal DSH;
- Protect the state from larger federal cuts;
- Have no impact on state general fund or Medicaid global cap;
- And provide a fairer distribution of hospital funding based on need, both upstate and downstate.

Drafted by Judy Wessler in response to the Release of the ICP Report on February 7, 2019 & Need for fixing the Inequity of the ICP Pool Distribution. For more details or how you can join our immediate efforts, please reach out to Judy Wessler at ladyhealth@aol.com or Anthony Feliciano at Afeliciano@cphsnyc.org