

September Update

Out-of-Network Update:

Our Access to Care Coalition (Coalition) met late last month to discuss our next steps in light of the feedback we received from the Out-of-Network (OON) bill sponsors. The coalition is a group of physician specialties, the Medical Society of New Jersey (MSNJ), individual hospitals and the New Jersey Hospital Association (NJHA). The consensus of the coalition was to continue to be united as a group and not participate in the Sponsors' sensing meeting the week before the Labor Day holiday weekend. MSNJ and the NJHA both have study groups that will be finished with their work in mid-September. At that time they will have recommendations to offer on many issues including transparency, disclosure and dispute resolution.

Given the fact that the House of Medicine and our hospital provider allies are united and working closely together we agree and recommend waiting until then to share those recommendations with the bill Sponsors and Legislative Leadership.

In the meantime, the Coalition is working as a group to contact key legislators and members of the Senate and Assembly leadership teams, the two committees in which the OON bill is under consideration, the Senate Commerce Committee and the Assembly Financial Institutions and Insurance Committee. We want to communicate that we are actively working on compromise language with hospitals and the State's largest insurance carrier. We want to make sure that all legislative stakeholders understand we are not being obstructionists but are diligently working together on a common framework that will be finalized shortly.

On September 1st, the NJHA hosted an internal stakeholder meeting. Upon the conclusion of that meeting our Coalition conducted a conference call on which we continued to fine-tune our ongoing strategy. Along with the MSNJ and the NJHA the coalition is studying proposals that have been put forth in other states and by public policy organizations so that we offer the best compromise language possible.

For example, the coalition discussed a balance billing disclosure model act that the National Conference of Insurance Legislators (NCOIL) put together in 2011 and we are continuing to study parts of New York's OON law.

Taxing Hospitals

Non-profit hospitals may have to begin paying property taxes to the municipalities in which they have property following a June 25, 2015 court ruling that Morristown Medical Center should pay property taxes on most of its 40-acre property. A tax judge ruled that the Morristown Medical Center failed to meet the legal test that it operated as a non-profit, charitable organization for the 2006 through 2008 tax years. This ruling applies only to the hospital's property taxes, not to its federal tax status as a non-profit entity. Senate President Stephen Sweeney recently said that this will be a priority for the Senate this year following the November election. Ideas under consideration include a payment in lieu of taxes program, payment based on a percentage of revenues, or a regular property tax. Assemblyman Herb

Conaway, MD, Chairman of the Health Committee is working on legislation and the Senate President and his staff continue to study ideas too.

Virtua Health - Cooper University Hospital Lawsuit

In July, Virtua Health and Capital Health System filed a lawsuit against the State of New Jersey seeking to stop the implementation of a recently-enacted emergency medical services (EMS) law that allows Level 1 trauma centers Cooper University Hospital (Cooper) in Camden, Robert Wood Johnson University Hospital (RWJ) in New Brunswick and University Hospital in Newark to take over paramedic services in their regions by January 2016. Cooper and RWJ are expected to take over these services in Camden and Hamilton, respectively. RWJ and University Hospital already provide EMS services in this municipality so this legislation is perceived to be more of a benefit to Cooper Hospital.

A special provision of the law will allow RWJ to take over EMS services in Hamilton. Virtua has been providing the Advanced Life Support (ALS) services to the City of Camden for 38 years and Capital Health has provided ALS services since 1977. Virtua and Capital Health System contended in court documents that this new law violates the New Jersey Constitution's clause against special legislation. This new law allows Cooper Hospital to bypass a state Department of Health (DOH) process that requires a hospital system seeking to provide EMS service in a region to submit a comprehensive certificate of need application to the DOH.

This law was fast-tracked in the Legislature as it was introduced in early June, passed by both the Senate and the Assembly by the end of that month and was signed into law by the Governor in early July.

Summer Recess

The Legislature continues to be in summer recess. All 80 Assembly seats are up for election this year, so the Assembly is not expected to meet until mid-November and the Senate will meet periodically this Fall. The Senate has been holding pro forma sessions to prevent the governor from making recess appointments. They are not voting on anything substantive or controversial because of the election. The Legislature will hold its lame duck session in the remaining weeks of the current legislative term.