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Commission on Health Care for Our Neighborhoods Issue Brief:

Sustaining the Safety Net

Recommendations on NYC Health + Hospitals' Transformation

March 2017

Summary

Since the founding of Bellevue as the nation's first public hospital in 1736, New York City's public hospital and health care system has and will always provide care to any and all New Yorkers in need. These vital health care services not only help individual patients, they keep our City and our communities healthy. Today, our treasured public health care system is at perilous risk. The uneven and unpredictable patchwork of critical safety-net funding that helps to fund essential care for our most vulnerable New Yorkers is about to crumble. Funding streams that were designed to fill budget holes rather than promote ongoing and coordinated care for patients are governed by state and federal law beyond the control of NYC Health + Hospitals or city policy makers, and this funding is rapidly declining.

Anticipated policy changes by the new federal administration are likely to compound declining revenue. Currently, more than 90 percent of NYC Health + Hospitals patient revenues come from public coverage programs. Congress and the President are taking steps to repeal and replace the Affordable Care Act (ACA), potentially eliminating, or drastically reducing, coverage and revenues under Medicaid, the Essential Health Plan and subsidized marketplace plans. Across the state, over 6 million New Yorkers are covered by Medicaid and Child Health Plus and over 900,000 rely on Essential Health Plan (660,000) and Qualified Health Plans (240,000) coverage that is made available through the ACA. The new administration and Congress are also considering significant changes in Medicaid and Child Health Plus eligibility, benefits, financing and administration, and policies supporting vulnerable individuals and immigrants. As part of ACA repeal, Congress has advanced legislation that would dramatically restructure the Medicaid program in ways that would reduce funding and potentially place onerous participation requirements on beneficiaries. The net impact of such changes could dramatically increase the number of uninsured New Yorkers that currently seek care at NYC Health + Hospitals, negatively impacting the system's financial stability.

Given the swift movement on an ACA replacement plan, NYC Health + Hospitals must continue to make every effort to reconfigure into a sustainable system and provide the best care possible for the people of New York. Further, while potential new federal policies are not the subject of this brief, NYC Health + Hospitals and its allies must actively engage with city, state, and federal leaders to protect our critical health system. The Commission thanks all stakeholders that have already engaged and expressed support including labor, providers, community partners, and other city and state partners.

This issue brief outlines:

1. NYC Health + Hospitals Vital Role in Caring for the Underserved

- NYC Health + Hospitals delivers more care to the uninsured than any other health system in the City.
- Nearly half of all uninsured hospital stays and emergency department visits, and 80 percent of uninsured non-emergency hospital visits, occur within the NYC Health + Hospitals system.

2. Anticipated Changes in Safety-Net Funding

- NYC Health + Hospitals is projected to experience a decline of nearly $1.2 billion in traditional safety net funding through fiscal year 2020.
- NYC Health + Hospitals is slated to bear the brunt of the federal Disproportionate Share Hospital (DSH) cuts statewide, and currently unmeasurable potential impacts from ACA replacement proposals that could spell financial ruin.

3. The Commission's Suggested Strategies for Sustaining the Safety Net

- NYC Health + Hospitals should advocate for a delay of federal DSH cuts.
- NYC Health + Hospitals should advocate for changes in DSH funding to ensure equity in its distribution.
- As part of its overall population health strategy, NYC Health + Hospitals should create an uninsured care program to ensure that uninsured patients at NYC Health + Hospitals access services similarly to those with health insurance.

NYC Health + Hospitals Vital Role in Caring for the Underserved

NYC Health + Hospitals is the primary provider of health care services to uninsured and vulnerable New Yorkers. Drawn by its historic mission as well as its expertise in providing culturally-responsive, high-quality care, NYC Health + Hospitals provides care to more than 400,000 uninsured patients annually. Nearly half of all uninsured hospital stays and emergency department visits, and 80 percent of uninsured non-emergency hospital visits, occur within the public health care system. This is more care to uninsured New Yorkers than any other provider in the city.

At a time of increasingly inflammatory rhetoric targeted at immigrant communities, NYC Health + Hospitals remains strongly committed to being a trusted destination for all who need care. NYC Health + Hospitals will continue to safeguard the information of the patients it serves, meeting its legal and ethical requirements. All patients are afforded the right to privacy while in the hospital and to strict confidentiality of all information and records regarding their care. NYC Health + Hospitals has always been committed to privacy of information of our city's immigrants and has policies directing employees not to collect or store information about immigration status. NYC Health + Hospitals and the Mayor's Office of Immigrant Affairs have reaffirmed this commitment in an open letter to ease apprehension over the 2016 federal election's impact on national immigration policies. New York City also issued Executive Order 34 of 2003 and Executive Order 41 of 2003, which protects immigrant New Yorkers from unnecessary collection or reporting of immigration status when interacting with City government. NYC Health + Hospitals will continue this commitment. Patients, their families, and their communities, should feel safe coming to NYC Health + Hospitals and confident that their information will remain confidential.

NYC Health + Hospitals is also a major provider of health care for low-income and uninsured New Yorkers. Nearly 70 percent of hospital stays are for Medicaid and uninsured patients, as compared to less than 40 percent of stays for other New York City hospitals. Further, unlike other hospitals, NYC Health + Hospitals has comparatively low volumes of Medicare and commercially insured patients and revenue, which typically help offset the costs of providing care to the uninsured. As a result, patient revenues have never – and will never – break even with costs, leaving NYC Health + Hospitals heavily reliant on city, state and federal funds to support its mission to deliver health care to all as a public good.

Anticipated Changes in Safety-Net Funding

NYC Health + Hospitals' largest source of operating revenue by far is Medicaid, the joint state and federal program which provides insurance coverage to qualifying individuals and families with low or moderate incomes. Medicaid payments come to NYC Health + Hospitals both through reimbursement for specific services, and through supplemental "safety-net" payments to certain providers serving large numbers of Medicaid and uninsured payments. NYC Health + Hospitals relies on two primary sources of safety-net funding: Medicaid Disproportionate Share Hospital (DSH) payments and Upper Payment Limit (UPL) payments. Due to federal and state policy changes under current law, both sources of funding are projected to decline rapidly in the next few years. NYC Health + Hospitals now faces a financial cliff – a projected decline in safety-net funding by about half – before taking into account any major impacts from federal proposals to repeal to ACA. The scale of the safety-net payments under current law is devastating, threatening the public health care system's ability to continue to serve vulnerable New Yorkers. Each of these funding streams, and the drivers behind their projected reductions, are discussed further below.

Safety-Net Payments ($ in millions)	FY16	FY17	FY18	FY19	FY20	FY16 – FY 20 change
DSH	$1,366	$1,173	$944	$574	$596	-$770
UPL	$867	$1,119	$596	$492	$477	-$390
TOTAL	**$2,233**	**$2,292**	**$1,540**	**$1,066**	**$1,073**	**-$1,160**

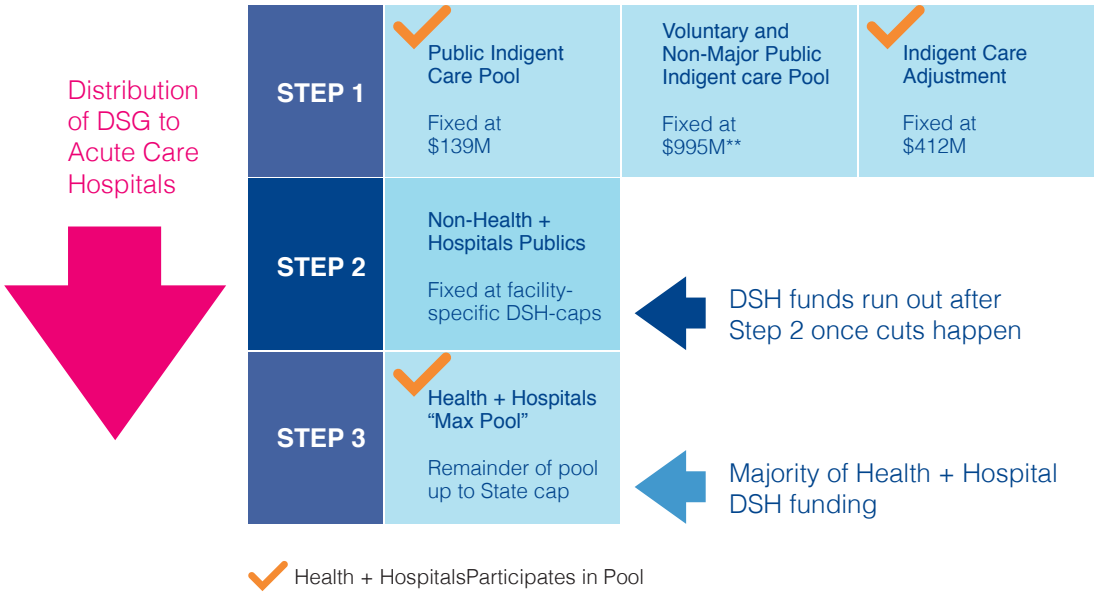
Source: FY17 Executive Budget
Note: Table excludes continued city contribution to DSH ($174M in FY18 and $356M in each of FY19 and FY20) when federal cuts begin in FY 18.

Disproportionate Share Hospital (DSH) Funding

While the ACA resulted in an expansion of coverage through Medicaid and the Marketplace, it authorized a reduction in federal Medicaid DSH payments under the assumption that there would be fewer uninsured people as a result of the new coverage paradigm. New York has, indeed, experienced a sharp drop in the uninsured rate as a result of the ACA. However, DSH funding for the uninsured has never been sufficient to cover all costs associated with uninsured patients, and New York continues to be home to a large number of uninsured even after these reforms. As a result, NYC Health + Hospitals continues to have a high demand for services from the uninsured, while as a result of the ACA, the DSH safety-net funding on which NYC Health + Hospitals heavily relies is projected to drop from the estimated $1.4 billion in fiscal year 2016 to $600 million in fiscal year 2020. The first DSH cuts are scheduled to go into effect on October 1, 2017; the latest projections indicate New York State will experience an 18 percent cut in Federal Fiscal Year (FFY) 2018, with this amount growing each year through FFY 2024. Proposals currently advancing through Congress that would repeal portions of the ACA yet would still maintain these DSH cuts for New York.

Due to the way in which DSH payments are currently distributed under state law – in which NYC Health + Hospitals receives the majority of its DSH funding from the last in a series of funding pools – NYC Health + Hospitals is slated to bear the brunt of the DSH cuts statewide (see graphic on next page). These cuts will undoubtedly imperil its ability to serve all New Yorkers, regardless of their ability to pay.

Current total NYS DSH funding is capped at $3.4B*



Notes
* $3.4B comprises $2.8B in DSH payments for acute care hospitals and $605M in DSH payments for OMH Facilities.
** Voluntary and Non-Major Public Indigent Care Pool includes $339M in UPL payments.

Upper Payment Limit Payments

Due to another confluence of federal and state policy, UPL payments are also declining significantly. Under current federal law, UPL payments may be made when certain Medicaid fee-for-service payments are below what Medicare would have paid for the same service. As New York now requires most Medicaid participants to enroll in managed care, NYC Health + Hospitals receives far fewer fee-for-service payments; in turn, this decreases its UPL payments. Due to the statewide shift to Medicaid managed care, UPL payments to NYC Health + Hospitals are projected to drop from $900 million in Fiscal Year 2016 to $500 million in Fiscal Year 2020.

The Commission's Suggested Strategies for Sustaining the Safety Net

The changes for DSH and UPL payments described above assume cuts under the ACA and New York State Medicaid law stay in place. NYC Health + Hospitals and its supporters have no choice but to act now to stave off the cuts under current law, while remaining vigilant to other changes that could impact NYC Health + Hospitals' financial viability. Specifically, the system should seek: (1) a repeal, delay or reduction in DSH cuts; and (2) the creation of an uninsured care program as part of the system's overall population health approach to provide quality, cost-effective care for all its patients, including the uninsured.

DSH Cut Repeal, Delay or Reductions

Congress has acted to delay Medicaid DSH cuts on two occasions since the ACA was enacted. NYC Health + Hospitals, along with other New York hospitals, labor and community partners should continue to advocate strongly for further postponement or potentially a cancellation of the Medicaid DSH cuts through Congressional action as part of the broader ACA repeal effort. This requires a significant advocacy effort in coordination with national allies – other safety-net providers, labor unions, city and state governments, and community groups – to move forward. The Commission thanks the Municipal Labor Committee for their support and proactive advocacy at the federal level to delay the Medicaid DSH cuts. Success in securing a delay or repeal of the DSH cuts is far from guaranteed and the major legislative proposal currently before Congress would see the DSH cuts maintained for New York State through Federal Fiscal Year 2020.

It is important for NYC Health + Hospitals and its supporters to develop and advance a contingency plan in case the cuts go into effect that ensures any cuts are allocated equitably, both across states and within New York. Medicaid DSH cuts are scheduled to go into effect October 1, 2017. Regulations on how the federal cuts will be allocated across states were expected to be proposed in early 2017. There is no certain way to know when, or even if, those federal regulations will be released, but NYC Health + Hospitals should be poised to review and comment on the proposal regulations to ensure that New York is subject to no more than a fair share of the reductions.

If the DSH cuts are implemented, the equity issues within the State are stark. Without State legislative and executive action, NYC Health + Hospitals – the health system that cares for more uninsured patients than any other system in the State – will shoulder the majority of the burden of these cuts. This is an artifact of how the DSH funds are distributed today; it does not represent a sound approach once there are significantly fewer dollars to distribute. To address this unintended impact, NYC Health + Hospitals should identify strategies that ensure that critical safety-net funds are retained in the system and all hospitals bear an equitable share of any federally-mandated DSH cuts.

Should the federal portion of DSH payments be reduced, local and state investments for DSH payments would remain and should be re-directed through other vehicles to draw down federal Medicaid funding and support New York's safety-net providers. Funds could be directed into broad-based or targeted Medicaid managed care rate increases for providers. Legislation (A9476/S6948) that passed in both chambers of the State Legislature in June 2016 provides one established pathway. It directs increased Medicaid reimbursement for hospitals that primarily care for Medicaid and uninsured patients. While that bill was vetoed by the Governor, language that may have addressed the Governor's concerns has been included in the State FY2018 budget negotiations. If successful and well-designed, this strategy could significantly offset the impact of the DSH cuts across the State as well as facilitate an equitable distribution of safety-net funds to providers.

Uninsured Care Program

Even if the expanded ACA coverage in New York is maintained under the new federal administration or through State action, significant numbers of New Yorkers will remain uninsured. New York State is home to a diverse and vibrant community, including over four million immigrants (second only to California in number and share of immigrants). Hundreds of thousands of immigrants are restricted from qualifying for state or federally supported coverage programs – Medicaid, Essential Plan, and Qualified Health Plan – due to their immigration status. While immigrants use health care less than U.S. citizens, when they are confronted with urgent health care needs they are more likely to rely on the public health care system. It is essential for NYC Health + Hospitals' transformation efforts and for the viability of the safety net in New York City overall, to identify new ways to sustainably finance and deliver quality, coordinated care for uninsured New Yorkers, including community-based outreach to connect uninsured New Yorkers to available health care and social service resources. The City has committed to serving the uninsured and to contributing its fair share with city funds, but additional financial support is needed.

Across the country, there is precedent for the CMS approving Medicaid waivers to provide additional funding for safety-net providers that care for a disproportionate share of the uninsured, although these types of waivers may be less likely to gain approval under the new federal administration. Other states, including Alabama, California and Massachusetts, have received such federal Medicaid waivers and these Medicaid waiver programs have helped inform NYC Health + Hospitals' design of a potential uninsured care program to enhance the way care is being delivered to the uninsured. Approval of federal funding for such a program is highly unlikely under the new administration.

Other Medicaid Wavier Models

The Health First Program in Alabama provides access to care for low-income patients at Cooper Green Mercy Health Services, a multi-specialty ambulatory clinic. Low-income patients in the Health First Program receive a program card and can access the range of services available at Cooper Green – including outpatient primary, specialty and urgent care/emergency care, pharmacy and behavioral health – with significant financial assistance. Alabama's waiver matches county support for the program, providing $21 million in federal funding annually. California's recently approved Global Payment Program funds care to the uninsured for designated public hospitals through a global budget designed to incentivize care in the most appropriate and cost-effective settings. The waiver makes available total federal and non-federal funding of $2.9 billion in State Fiscal Year 2015-2016 for delivery of care for the uninsured across the 12 participating public hospitals and their affiliated/contracted providers. Massachusetts's Health Safety Net program supports care to commonwealth residents with income below 400 percent of the Federal Poverty Level in a network of participating acute care hospitals and community health centers. In 2015, the Health Safety Net program provided total federal and non-federal support of $403 million for services to 274,000 uninsured and underinsured patients.

Even though federal funding is improbable in the near future, NYC Health + Hospitals should still build on lessons learned through ActionHealthNYC, a demonstration program funded by the City and private foundations that provides care management and health care services to approximately 1,300 uninsured New Yorkers, to create an uninsured care program that better serves these New Yorkers and leverages NYC Health + Hospitals' investment and experience in care management (see Building Clinical Partnerships). An effective program would feature:

- A population health management approach emphasizing evidence-based preventive interventions, chronic disease management, and patient engagement.
- A value-based payment model that prioritizes coordinated primary and preventive care and incentivizes appropriate use of inpatient and emergency services.
- A clinically-integrated network of health care providers who are jointly incentivized to provide high-value clinical care to patients.
- An improved patient experience that facilitates consumer understanding of and coordinated access to available health services, including a membership card that gives patients reassurance they are enrolled in a program.

The uninsured care program would also leverage NYC Health + Hospitals Options, the existing financial assistance program (similar to the Health First Program in Alabama) that facilitates access to affordable care for 176,000 uninsured patients. In addition, the uninsured care program could potentially in the future expand to other partners, including other hospitals and community health centers, similar to the California's Global Payment Program and Massachusetts's Health Safety Net.

Commission Recommendations

The Commission recommends that given that NYC Health + Hospitals assumes a disproportionate role in serving uninsured and low-income Medicaid-eligible individuals and will always rely on governmental safety-net funding, the state and federal governments should devise new ways to replace a significant percent of the safety-net funding to NYC Health + Hospitals.

- NYC Health + Hospitals should continue to pursue dual strategies for a delay of federal DSH cuts and mitigation of federal DSH cuts through more equitable distribution of state DSH funding, should federal cuts occur.
- NYC Health + Hospitals should continue to explore approaches to enhance broad-based or targeted reimbursement increases to Medicaid providers, including approaches similar to safety-net provider legislation (A9476/S6948 of 2016) which have been included in the State FY2018 Assembly one-house budget proposal.
- NYC Health + Hospitals should continue to explore the potential for an uninsured care program and, if viable, develop a legal, policy, fiscal and operational roadmap for implementation. An effective uninsured care program should include the following elements, which are both important to patients and will make the program attractive to policy makers:
  - Maintenance of city financial support for services delivered to the uninsured at NYC Health + Hospitals
  - Broader reach beyond NYC Health + Hospitals
  - Cohesive patient experience
  - Care management and population health approach
  - Value-based payment structure
  - Patient cards to facilitate identification with the program at points of care
  - Partnerships with community organizations to connect uninsured patients with coverage, where eligible, care, and social service resources.

Concurrent with uninsured care Program planning and implementation, NYC Health + Hospitals should be sharing ideas about the approach and building coalitions to ensure it is in the best position for success. For example, if an approach for federal funding is deemed feasible in the new federal environment, support and commitment from the New York State Department of Health will be necessary. Further, support from the broader hospital community, labor, community organizations, and New York's congressional delegation will also be important as the request for federal funding moves to CMS.

Finally, NYC Health + Hospitals and its stakeholders must be actively engaged in the coming months as proposed changes in federal policy emerge. The current proposal in Congress and the types of changes to safety-net programs like Medicaid endorsed by the White House and Congressional leaders spell catastrophe for both our treasured public health care system and its patients. NYC Health + Hospitals and the City need to be vocal and steadfast in their opposition to federal policies that undermine health insurance coverage and access to care, including primary and preventive physical and behavioral health services for vulnerable New Yorkers, and to federal policies that decrease vital safety-net funding for essential health care providers. It is critical to the sustainability of NYC Health + Hospitals and to the health and lives of its patients that our state and city leaders work together to protect New York's progress in expanding coverage and ensuring access to care to all New Yorkers, regardless of their ability to pay or immigration status.