



**2017-2018 SENATE AND ASSEMBLY HEARING ON THE
EXECUTIVE HEALTH BUDGET PROPOSAL**

February 16, 2017

Testimony from the Hospice and Palliative Care Association of New York State

Introduction

The Hospice and Palliative Care Association of New York State (HPCANYS) appreciates the opportunity to provide comments on the 2017-18 proposed Executive Health Budget. HPCANYS' mission is to promote the availability and accessibility of quality hospice and palliative care for all persons in New York State confronted with life-limiting illness. Hospice and palliative care fundamentally incorporate important components of quality and affordable healthcare—case management and patient centered care. They exemplify the State's Triple AIM approach. We support the Governor's vision of constructive partnerships helping to improve health care delivery and outcomes while reversing unsustainable spending trends, and we urge that hospice and palliative care providers be embraced as collaborative partners.

About Hospice and Palliative Care

Hospice and palliative care offer appropriate, high quality, cost-effective care to patients and their families, and Hospice is one of Medicare's most cost-effective programs.

The Hospice and Palliative Care Association of New York State represents the state's certified hospice providers and palliative care providers, as well as individuals and organizations concerned with care for patients at the end of life. Hospice serves patients at the end of life and provides pain and symptom management, addresses social, emotional and spiritual needs and provides care and support to the bereaved. Hospice services are provided in the home, nursing home, and inpatient facilities. Hospice is a Medicare benefit for individuals who have a terminal illness of six months or less if the disease runs its normal course. CMS approved a State Plan Amendment to define terminal prognosis for the NYS Medicaid Hospice benefit as 12 months.

Palliative care extends the principles of hospice care to a broader population that could benefit from receiving this type of care earlier in their illness or disease process. Palliative care seeks to address not only physical pain, but also emotional, social and spiritual pain to achieve the best possible quality of life for patients and their families. A number of hospice programs have added palliative care to their names to reflect the range of care and services they provide, as hospice care and palliative care share the same core values and philosophies.

New York State's Medicaid Redesign Team called for greater access to Hospice in MRT #209 and to Palliative Care in MRT #109. And yet, in New York State, hospice utilization and length of stay are extremely low:

- **Hospice Utilization (Medicare) — 30.3% New York State vs. 45.9% national (2014 Medicare data);**
- **Median Length of Stay (LOS) (Medicare) — 16 days New York State vs. 23 days national average (2014 Medicare data).**

We urge you to recognize the importance of Hospice and palliative care in the continuum of care and in New York's plans for Medicaid Redesign and care transitions. Please consider our requests concerning Article VII Legislation to Implement Health and Mental Health Portion of the Budget:

Hospice & Medicare/Medicaid – The Governor's budget proposal includes language intended "to clarify that Medicaid would not cover hospice-related services otherwise covered by Medicare," (a \$4.4 million reduction). It is unclear how this proposal would be implemented. The only explanations we have received are: 1) it has to do with "ancillary services," and 2) the cut will be implemented as a cut to MLTC rates, based on the assumption that hospice programs are billing MLTC plans for services and supplies that should be properly billed to Medicare. Neither explanation makes sense, because room and board (R&B) is the only service for which hospice bills MLTC. The hospice benefit is "carved-out" of MLTC. For dual eligible individuals, Medicare is billed. For non-duals, straight Medicaid is billed. Hospice is an all-inclusive service billed at a per diem rate, which includes physician, nursing, home health aide, social work, psycho-social support, spiritual care, as well as durable medical equipment and medication related to the terminal prognosis. We are deeply concerned that hospice patients will be negatively impacted by the proposed \$4.4 million cut. *(Part E, Section 6)* **HPCANYS' request: that this section be struck from the proposed budget.**

Rate Adequacy for Managed Long Term Care (“MLTC”) Plans – MLTC plans are responsible for room and board for its members who are also enrolled in hospice and reside in a nursing facility or a hospice residence. Proposed cuts included in the Governor’s budget to the already insufficient rates for MLTC threaten the viability of providers and therefore put at risk nursing facility residents enrolled in hospice, as well as hospice patients in hospice residences. *(Part E)* **HPCANYS’ request: Restore proposed cuts to MLTC plans and ensure that room and board reimbursement for hospice patients in nursing facilities and hospice residences is not jeopardized.**

Health Care Facility Transformation Program – The Governor’s budget proposal would establish this program “for the purpose of strengthening and protecting continued access to health care services in communities.” Providers have not received state financial support for the critical infrastructure needed to survive in today’s changing health care environment. The Legislature should allocate appropriate funding for infrastructure, including health IT and health information exchange, and telehealth. Eligible providers include home care providers, but not hospice providers. We urge the legislature to include hospice providers and ALPs Assisted Living Programs. Assembly Bill 1650 (Magnarelli) addresses this omission. In addition, the Governor’s proposal allocates only \$30 million for community-based providers. This amount is insufficient, as this effort to move patients from hospital to community settings will require significant resources to accomplish. *(Part K)* **HPCANYS’ requests: 1) Make hospices and ALPs eligible providers under the Health Care Facility Transformation Program; and 2) Increase funding for community-based providers.**

Health Care Regulation Modernization Team – The Governor’s proposal would establish an advisory group which would include stakeholders to provide advice and counsel “toward a fundamental restructuring of the statutes, policies and regulations that govern the licensure and oversight of health care facilities and home care to better align with recent and ongoing changes in the health care delivery system that are designed to increase quality, reduce costs and improve health outcomes.” Although home health care is mentioned in the list of stakeholders, hospice is not, and that needs to be rectified. HPCANYS has taken a strong, proactive role in working with the NYS DOH regarding regulation modernization. In particular, after extensive research regarding the hospice need methodology under Certificate of Need (CON), HPCANYS offered a proposed revised need methodology based on current utilization. *(Part L)* **HPCANYS’ request: That hospice representatives be included on the Health Care Regulation Modernization Team.**

Access to Pain Management Medication/Opioids – The Governor’s budget proposal includes language to address the State’s continued effort to combat the opioid crisis. The proposal would make the inappropriate prescribing of opioids an unacceptable provider practice in the Medicaid program, which could result in the provider’s exclusion from the program. While we recognize the need for vigilance in this area, we ask that the legislature also recognize that hospice and palliative care providers need to be able to prescribe appropriate opioids for pain management. **(Part D, Section 8) HPCANYS’ request: Clarify that this proposal would not create unnecessary barriers for hospice and palliative care providers prescribing appropriate opioids for patients with advanced, life-limiting conditions.**

Delivery System Reform Incentive Payment Program (DSRIP) – Hospice and palliative care providers are positioned to be strong resources to Preferred Provider Systems (PPSs) regarding transitions of care, patient satisfaction, avoidance or unnecessary re-hospitalizations and emergency room visits. Despite this fact, hospices have received minimal funding—\$378,592.64 (0.19%)—under DSRIP. In addition, it does not appear that DSRIP workforce funding is slated to go to hospices in need.

HPCANYS’ requests: 1) Support greater inclusion of hospice and palliative care providers in DSRIP’s care transition projects, and 2) Ensure that hospices in need receive DSRIP workforce funding.

Nursing Home Transition and Diversion and Traumatic Brain Injury Waiver Programs –

We remain concerned regarding continuity of services and possible reduction of services expressed at recent NHTD/TBI Stakeholder Meetings. According to the NYS DOH, due to the delay in full implementation of Community First Choice Option (CFCO) into Managed Care being pushed back to January 1, 2018, the transition date for both the NHTD and TBI Waivers will now be April 1, 2018. Despite this three-month delay, we urge that carve-in readiness continue to be evaluated and assessed. **HPCANYS’ requests: 1) Continue to assess and evaluate carve-in readiness and, if warranted, postpone the NHTD/TBI carve-in to the Managed Long Term Care Program (MLTC) until such time that concerns regarding continuity of services and possible reduction of services are appropriately addressed. 2) Proactively address via education and communication that hospice is accessible to clients formerly served under NHTD/TBI waivers.**

Conclusion

Hospice and palliative care provide case management and patient centered care. They are the perfect partners to help advance the State's objective of providing quality, cost-effective care. The Hospice and Palliative Care Association of New York State looks forward to working with you in the coming year to ensure that the FY 2017-2018 budget provides your constituents with access to quality hospice and palliative care.

Submitted by:

Kathy A. McMahon, Consultant
Hospice and Palliative Care Association of New York State
kmcmahon287@gmail.com
845-340-0051

Additional Contact Information:

Sandra Rivera or JoAnn Smith
Government Affairs Consultants for
Hospice and Palliative Care Association of NYS
srivera@srivalaw.com
jsmith@srivalaw.com
518-533-2884

02-13-17

