SAVE OUR SAFETY NET–CAMPAIGN

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SUMMARY OF F-SHRP WAIVER AGREEMENT

New York State's Federal-State Health Reform Partnership (F-SHRP), submitted to the federal Center for Medicare and Medicaid Services (CMS) in April 2005, was approved to begin on October 1, 2006. F-SHRP is part of the state's federal Medicaid waiver request which allows the state to waive certain Medicaid requirements and provides funding for demonstration programs. The state originally requested $1.5 billion over a three year period, and was approved for that amount of funding to be spent over a five year period. There are some other changes in the waiver, some that appear to have come from the successful advocacy efforts of Commission on the Public's Health System (CPHS), Save Our Safety Net - Campaign (SOS-C), and other groups. What has not changed is that the CMS approval in the form of Terms & Conditions, uses a dangerous number from the state's proposal. The CMS Terms & Conditions states (but does not require the specific closing of this number) "significant excess capacity that exists in the State, estimated at over 19,000 beds." This means closing perhaps 19,000+ hospital beds statewide or one-third of all hospital beds!

The last waiver demonstration in New York State, the Community Health Care Conversion Demonstration Project (CHCCDP) was approved with little oversight by the federal government. The State also exerted little oversight in this waiver, in which over a period of years almost $2 billion flowed into the state's hospitals to make them "managed care ready." In approving this waiver demonstration, the federal government has swung entirely in the opposite direction, seemingly overreaching in its requirements for the FSHRP demonstration by proscribing exact programs and milestones, which if not met could lead to a total loss of the federal funding.

In order to obtain agreement from CMS, the state had to agree to do the following as part of the overall waiver to "reform" the health care system:

* invest $3 billion of state money over the five years to match the federal $1.5 billion. The federal matching dollars can be used to match programs other than Medicaid programs so that the freed-up state dollars can be used for reform purposes described below.

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* implement by October 3, 2006, the Medicaid cost containment programs passed by the state legislature, including: restructure the benefit program and cost sharing for Family Health Plus; increase Medicaid co-pay for drugs; expand the managed long term care program; and begin implementation of a multiple payer Pay for Performance Demonstration. It also means an expansion of mandatory Medicaid managed care for all SSI recipients (including the Serious and Persistently Mentally Ill [SPMI]) and dual eligibles (Medicare/Medicaid), who will be exempt but will have to request the exemption.
* requires an expansion of private insurance coverage for the currently uninsured but employed residents, including people currently covered by Family Health Plus. The question is whether the private insurance will be affordable and cover services that are needed.
* increase the Medicaid fraud and abuse collections in the second year of this program to $215 million for the year and in the final year to $644 million.
* set up a Preferred Drug List (PDL) for all Medicaid populations, except for Family Health Plus by February 1, 2007
* improve compliance with ADA (disabled access) requirements through on-site reviews for managed care.
* set up a single point of entry system for Medicaid patients needing long-term care in at least one part of the state by April 1, 2008.

Health System Reform/Rightsizing

The F-SHRP reform efforts include:

* Rightsizing acute care infrastructure - the waiver cites the Commission on Health Care Facilities in the 21st Century (what we call the Hospital Closing Commission) which will make recommendations for downsizing, restructuring and/or facility closures. The state is required to submit two reports on the Commission: 1) by January 31, 2007, a report that certifies "that there are no statutory impediments to implementation of the Commission's recommendations"; and 2) by July 15, 2008, a report on the final recommendations of the Commission certifying "that each of the Commission's recommendations has been acted upon" and timeline for implementation. This requirement ties the new state administration into accepting all of the Hospital Closing Commission's recommendations, or risk losing the federal funds.
* The specific dollar spending for each of the five years of this demonstration is not clear at this time. The original request from the state for $1.5 billion over three years spelled out how the $500 million per year would be spent. The state will be receiving $300 million per year over the five years of FSHRP funding. There are no updated state documents that clarify how this $300 million per year will be allocated.
* The funding is to be used for: the hospital and nursing home restructuring/rightsizing to reduce excess capacity; provide long term care system reforms; have information technology (IT) to enhance efficiency; and increase use of ambulatory, primary, and community care as alternatives to institutional care. However, in an analysis of the Terms and Conditions prepared by the Greater New York Hospital Association, it says: "There is no requirement that money has to be spent on all of these items, but money can only be spent on projects that fit into these categories." Our fear is that there will be little or no money for the increased use of primary care and community care - which is a tragedy.

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The state will receive the $1.5 billion only if it complies with specific milestones that are outlined in the Terms & Conditions, which include: setting up a Preferred Drug List; reporting baseline data on hospitals, nursing homes, managed care use; increasing employer sponsored insurance; making the Medicaid changes that were part of the 2005/2006 state budget; improving ADA compliance; setting up a Single Point of Entry for long term care; and the required reports on the actions of the Hospital Closing Commission. If these milestones are not complied with, the state will not be eligible for the matching federal $1.5 billion.

New York State's F-SHRP Plan

A State Health Department official said that the state has not submitted a new plan - so the details of F-SHRP spending of the $1.5 billion are taken from the April 2005 proposal submitted by the State to the federal government. Four initiatives are identified for F-SHRP funding: Acute Care Rightsizing; Long Term Care Reform and Restructuring; Health Information technology; and Ambulatory and Primary Care Access and Quality improvement.

* Acute Care Rightsizing would get the lions share of the funds, at $850 million. $600 million for retiring/restructuring debt. $150 million to pay for labor commitments, including severance pay and pensions. $100 million for conversion of unneeded acute care facilities and community health centers - although there is no clear commitment to, e.g., critical access hospitals, community health centers, and emergency services in rural areas.
* Long Term Care Reform - would get $275 million, with $125 million allocated for paying off capital debt and labor costs. $50 million is for a Point of Entry system. $50 million for Home Modification and Housing Accessibility; and $50 million for Telehomecare.
* Health Information Technology - would get $300 million for: ePrescribing $125 million; Electronic Medical Records at $100 million; and Regional Health Information Organizations (RHIOS) at $75 million.
* Ambulatory and Primary Care Access would get $75 million. $25 million is allocated for data collection to capture information outside institutional settings. $10 million is targeted to Primary Care Management for disease management programs. $40 million is to be used to enhance training programs and to direct primary care resources in communities which are underserved. This is a tiny amount of funding considering the fact that much of ambulatory care services are provided in hospitals that may be closed and recent important reports have shown the extent of primary care shortages in many communities around the state and in the city of New York.

Conclusion

Although there are some positive aspects of the Terms & Conditions of the Federal-State Health Reform Partnership, the problems could very well outweigh the good. One positive aspect is that the conditions require compliance with all federal non-discrimination laws, including the ADA and Title VI of the Civil Rights Act. But of course, the benefit of this requirement will only be realized if some federal agency will be monitoring this requirement - and past history does not indicate that effective oversight will occur.

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Another positive is that the conditions actually talk about increasing primary and ambulatory care and community based care. A problem is that it is unclear if, and how much, of the $1.5 billion would be allocated to these services.

In an initial reading of the federal Terms & Conditions, it appears that the residents of New York State will be giving up an enormous amount in order for hospitals and bondholders to receive the $1.5 billion. This waiver will more than likely lock-in many aspects of the state's Medicaid program over the next five years, with almost no ability for positive reforms. That too is an obvious problem. Is the $1.5 billion worth all of this pain?

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