

Government Relations Update – January 28, 2019

New Jersey Issues

Legislation

- **S2426/S10**: Medical Marijuana. As one of his first acts upon taking office, Governor Phil Murphy (D) ordered a review of New Jersey’s medical marijuana program, calling it “constrained” and pledging to expand access to more patients. The Governor emphasized that only patients with a limited number of conditions were able to enroll. Those conditions are mostly chronic and debilitating, including epilepsy, glaucoma, ALS, severe vomiting from AIDS or cancer treatment, multiple sclerosis, Crohn’s disease and certain terminal illnesses.

On March 26, 2018, Senator Joseph Vitale (D-Middlesex) introduced a bill to authorize medical marijuana for treatment of any diagnosed condition, simplify the requirements for physicians to prescribe medical marijuana to qualifying patients and allow more dispensaries and cultivation centers to open. Because federal law currently prohibits the use of marijuana, the NJHA advocated for an amendment specifying that: (1) no health care facility would be penalized or denied any benefit under state law solely for permitting or prohibiting the handling, administration, usage, or storage of medical cannabis, provided that its policies related to medical cannabis are consistent with all other facility policies on medication handling, administration, usage, or storage; and (2) health care facilities would not be penalized or denied any benefit under state law solely for prohibiting the smoking of medical cannabis on facility property in accordance with the facility’s smoke free policy. The amendment was approved on the Senate floor on December 17, 2018. The bill still requires a full Senate vote before being sent to the Assembly for consideration.

- **A15**: Minimum Wage. On December 6, 2018, Assemblyman Craig Coughlin (D-Middlesex) introduced legislation to raise New Jersey’s minimum wage to \$15 per hour by 2024. The bill would increase the state’s minimum wage to \$9.50 per hour on July 1, 2019, \$11 per hour on January 1, 2020, \$11.55 per hour on January 1, 2021, \$12.70 per hour on January 1, 2022, \$13.85 per hour on January 1, 2023 and \$15 per hour on January 1, 2024. It is unclear when the bill will move forward.

NJHA sent a letter to the legislature supporting the minimum wage increase, but also requesting an increase in Medicaid payments to help offset the cost for nursing homes, assisted living communities, home health agencies, hospitals and hospice agencies that would have difficulty sustaining operations with the wage increase. Cooper Health and some other healthcare facilities have already voluntarily increased their minimum wage to \$15 per hour and have sent letters to other New Jersey hospitals encouraging them to do the same.

Miscellaneous

- **FY 2019-2020 Budget**: Governor Murphy is scheduled to give his 2019-2020 budget address in early March. NJHA has submitted written statements to the New Jersey Department of Human Services and the New Jersey Department of Health (DOH) requesting that the DOH fully fund the state charity care formula, especially since it was not fully funded in the current budget. NJHA has also requested additional Graduate Medical Education funding and that funding for the Delivery System Reform Incentive Payment Program (DSRIP) remain at the same level. From 2013 through 2017, St. Luke’s Hospital – Warren Campus received \$250,000 per annum through the DSRIP program.

Federal Issues

Advocacy

- **Legislative Visit:** On January 21, 2019, Congressman Brian Fitzpatrick (R-1) visited St. Luke's Hospital – Quakertown Campus. President Dennis Pfeleger and East Region President Ed Nawrocki provided the Congressman with a tour of the campus and an overview of the plans for the new hospital in Milford Township. The group discussed federal issues impacting the delivery of healthcare in the community, including the need to maintain the 340B program, the importance of Medicaid expansion under the Affordable Care Act and the continued funding of opioid addiction and behavioral health programs.

Miscellaneous

- **Federal Government Shutdown:** The federal government entered a partial shutdown on December 22, 2018 after the Senate adjourned without passing a stopgap funding measure. On January 25, 2019, President Donald Trump (R) and Congress agreed to reopen the federal government for three weeks while negotiations continue over immigration and border security measures. If the President and Congress cannot reach a final agreement by February 15th, President Trump has threatened to renew the partial shutdown or declare a national emergency to bypass Congress altogether to resolve border security issues.

Most federal agencies are funded through September 2019, but the shutdown affected the following Cabinet level departments: Homeland Security, Transportation, Commerce, Interior, Agriculture, Housing and Urban Development, and Justice. It also impacted some independent agencies, such as NASA and the IRS. Social Security services and offices remained fully operational during the shutdown, and Social Security benefits have been paid on time. Medicare, Medicaid and veterans benefits have been similarly unaffected.

- **Site-Neutral Payment Policy Lawsuit:** In Section 603 of the Bipartisan Budget Act of 2015, Congress amended the Social Security Act so that the Medicare program now pays the same rates for medical services regardless of whether they are provided in a physician's office or in a hospital department that is located away from or "off" the main campus of the hospital. At the same time, Congress excepted from this amendment all off-campus hospital outpatient departments that were providing services before the enactment of Section 603, so that those pre-existing departments would continue to be paid for their services at the higher hospital rates that pre-dated Section 603. However, under a rule that went into effect on January 1, 2019, CMS eliminated the higher hospital outpatient reimbursement rate for evaluation and management services provided by excepted off-campus provider based departments and began paying the lower physician office rate for these services.

On January 18, 2019, 38 hospitals sued the Department of Health and Human Services (DHS) claiming that the agency overstepped its authority in finalizing the payment change as part of the annual outpatient prospective payment system (OPPS) rule. According to the complaint, the site-neutral rule would reduce payments to hospitals by \$380 million this year and \$760 million in 2020. Providers involved in the lawsuit include Montefiore Health System, Rush University Medical Center, Vanderbilt University Medical Center, Atrium Health, Ochsner Medical Center and OSF HealthCare. The lawsuit asserts that the rule adopted by DHS directly violates the language adopted by Congress in Section 603 and is therefore unlawful.