Recommendations for the New York State Medicaid Health Information Technology Program

Presentation to the New York State Department of Health

April 9, 2010

Overview of GNYHA Recommendations

- GNYHA is pleased to provide comments and recommendations to the New York State Department of Health as it develops its Electronic Health Record (EHR) Incentive Program.
- Comments and recommendations focus on the following issues of concern for GNYHA member hospitals:
  - New York State's Health Information Technology (HIT) Strategy
  - Defining Meaningful Use under the Medicaid Program
  - Medicaid Incentive Payment Issues
  - Options for Putting New York State's EHR Administrative Funds to Use
- Supporting materials:
  - GNYHA Comments on the CMS Proposed Medicare and Medicaid EHR Incentive Program
  - NYS Survey of Hospital HIT Adoption (referenced only)

New York State HIT Strategy: Governance

Issue:

- NYS HIT Strategy is governed by multiple leading entities
  - Office of Health Information Technology Transformation (OHITT)
  - Office of Health Insurance Programs (OHIP)
  - New York eHealth Collaborative (NYeC)
  - Regional Health Information Organizations (RHIOs)
- Hospitals have an obligation to participate in activities of and comply with policies developed by each of the leading entities.
- Hospitals lack clarity on the alignment in HIT strategy and requirements between these entities.

Recommendation:

- There is a need for greater clarity and cohesiveness between OHITT, OHIP, and NYeC with respect to their HIT strategies and policies for implementing their programs.
- The OHITT, OHIP, NYeC alignment needs to be clearly communicated to hospitals to avoid confusion.

New York State HIT Strategy: Certificate of Need (CON)

Issue:

- In an effort to spur thoughtful HIT adoption, DOH requires hospital HIT projects to go through the State's CON process
- The CON application approval is contingent, among other requirements, upon the hospital's active participation in a RHIO and the purchase of a CCHIT-certified EHR.
- Hospitals also have federal incentives/requirements to comply with standards when implementing EHRs. These requirements do not include the implementation of CCHIT certified EHR systems.
- Active participation in a RHIO has a rising cost associated with it and is not a practical requirement *prior* to the implementation of an EHR.
- State administrative requirements during a time when hospitals are resource-strapped and struggling to meet time-sensitive federal requirements is an unnecessary burden.

Recommendation:

- The need for a CON application and review, however limited, for HIT projects should be eliminated.

New York State HIT Strategy: Capital Funding for HIT

Issue:

- A typical EHR implementation that meets federal and state requirements for incentive payments can cost between $20 - $100 million.
- Upfront implementation costs and access to capital were cited by 73% of NY hospitals as being a major barrier and the top concern with respect to EHR adoption.

Recommendation:

- GNYHA urges DOH to work with DASNY to develop flexible financing options to assist providers in making HIT investments. DASNY should also expand current programs such as TELP to allow more flexibility for HIT financing.
- DOH should also take advantage of the opportunities available through ARRA to create a state EHR loan fund.

Defining Meaningful Use: Criteria

Issue:

- CMS proposes that Medicare and Medicaid use a common set of criteria for defining "meaningful use" of certified EHRs.
- Under the CMS proposal, Medicaid programs may develop additional criteria as long as these criteria do not require EHR functionality beyond current federal EHR certification requirements.

Recommendation:

- GNYHA recommends that DOH does not require any additional criteria or requirements for hospitals to meet in order to be deemed "meaningful users" of EHRs under the Medicaid EHR incentive program.

Defining Meaningful Use: Quality Measure Reporting

Issue:

- As part of the CMS criteria for "meaningful use" of EHRs, hospitals must collect and report data on a set of quality measures to CMS. In addition, hospitals eligible for Medicaid incentives, must report on an additional set of measures, as applicable.
- CMS allows states the option to have providers report all quality measures to CMS. State Medicaid programs can then receive the relevant Medicaid data for each hospital from CMS directly.

Recommendation:

- To avoid duplicative and burdensome reporting requirements, GNYHA recommends that DOH allow hospitals to report all quality measures to CMS and that DOH obtain the relevant Medicaid data directly from CMS in order to deem hospitals eligible for incentive payments under Medicaid.

Defining Meaningful Use: "Adopt, Implement, and Upgrade"

Issue:

- Under the CMS proposal, Medicaid providers are eligible to receive an incentive payment in their first payment year, if they are engaged in efforts to "adopt, implement, and upgrade" to certified EHR technology, even if they have not yet satisfied all of the "meaningful use" criteria.
- New York hospitals are at varying stages of adoption and although EHR implementation is a part of their institutional strategic plans, each hospital's adoption path is different.

Recommendation:

- GNYHA strongly recommends that DOH allow for a degree of flexibility in defining "adoption, implementation, and upgrading" of certified EHR systems and recognize that full adoption takes time.

Defining Meaningful Use: Demonstrating "Meaningful Use"

Issue:

- CMS proposes that providers demonstrate "meaningful use" of EHRs through an attestation made to CMS for each payment year.
- CMS also proposes that there be a common method for demonstrating "meaningful use" under both the Medicare and Medicaid programs however, states would develop their own, CMS-approved plans for deeming providers eligible.

Recommendation:

- As the New York State Medicaid program develops its EHR incentive plan, GNYHA urges DOH to align Medicaid requirements and processes for demonstrating "meaningful use" with those for Medicare.

Medicaid Incentive Payments: Defining Eligibility – Multi-campus Hospitals

Issue:

- EHR incentive payments are available to subsection (D) hospitals that are "meaningful users" of a certified EHR. CMS will identify hospitals by the CMS Certification Number or Medicare provider number. This, in effect, would count a system of hospitals grouped under the same provider number as a single hospital.
- The CMS proposal fails to take into consideration the incremental EHR deployment costs of a hospital system.
- This proposal also subjects hospitals to EHR program penalties at the hospital system level, even if only one of the system's multiple hospitals is not found to be a "meaningful user".
- The limited nature of the CMS eligibility criteria would fail to foster widespread adoption.

Recommendation:

- GNYHA has recommended that CMS define campuses that are distinct from the main provider as remote locations of a hospital. In doing this, CMS would recognize the main provider, as well as the remote campuses, for purposes of identifying hospitals eligible for incentive payments.
- GNYHA strongly recommends that New York State recognizes individual campuses of a multi-campus hospital system in the same manner, as is proposed, for the purposes of the Medicaid incentive payments.

Medicaid Incentive Payments: Defining Eligibility –Hospital-based Physicians

Issue:

- Hospital-based physicians are excluded from receiving EHR incentive payments under both Medicare or Medicaid.
- GNYHA believes that CMS is overly broad in its definition of "hospital-based" physicians and is extremely concerned that physicians practicing in hospital ambulatory care clinics would be excluded.

Recommendation:

- GNYHA has recommended that CMS revise its proposed definition of "hospital-based" to only include the inpatient and emergency department settings and to remove certain physicians practicing in hospital ambulatory care settings from its definition.
- GNYHA urges New York State to define "hospital-based" physicians in the same manner for the purposes of the Medicaid incentive payments.

Medicaid Incentive Payments: Calculating Patient Volume

Issue:

- Medicaid HIT incentives are available to qualifying, acute care hospitals with at least 10% of their volume attributable to Medicaid patients.
- CMS proposes the Medicaid patient volume threshold be calculated using total Medicaid encounters for any representative 90-day period in the preceding calendar year and further proposes to allow states flexibility in determining the appropriate timeframe and data source for this calculation.

Recommendation:

- GNYHA recommends that DOH provide as much flexibility as possible in calculating the eligibility thresholds. For example, if a hospital does not meet the 10% threshold based on their inpatient discharges, DOH should also consider an equivalent of it's ambulatory care volume. Allowable sources for this data should include the hospital's most recently submitted NYS Institutional Cost Report.

Medicaid Incentive Payments: First and Second Payment Years

Issue:

- ARRA allows state Medicaid programs to distribute up to 50% of hospitals' estimated total aggregate incentive payments in the first payment year and up to 90% over the first two years.
- Additionally, first-year Medicaid HIT incentives can be made to hospitals that show progress toward the adoption of an EHR, but are not yet "meaningful users."
- This feature of the Medicaid incentive is critical to GNYHA member hospitals, as upfront costs and access to capital are tremendous barriers.

Recommendation:

- GNYHA strongly recommends DOH to provide the maximum payment amounts allowable in the first and second payment years for Medicaid-eligible hospitals.

Medicaid Incentive Payments: Operationalizing Payments

Issue:

- Once DOH determines that a provider has successfully met the qualifying criteria to receive HIT incentive funds, the State should release the applicable incentive funds to the provider in an expedient manner.

Recommendation:

- DOH should authorize that lump-sum payments representing the provider's annual Medicaid incentive fund amount be released. This should be done within 60-days after the provider has successfully met the criteria.

Medicaid Incentive Payments: Appeals Process

Issue:

- Under the EHR incentive program, CMS proposes that states develop an appeals process in which Medicaid providers will have the ability to appeal incentive payments, incentive payment amounts, provider eligibility, and demonstration of meaningful use.

Recommendation:

- GNYHA is supportive of the proposed process to permit providers to appeal aspects of the Medicaid incentive program.

New York State Administrative Funds: Options

Issue:

- Under ARRA, states will receive 90% of their administrative costs related to managing the Medicaid EHR incentive program, including oversight and promotion of adoption and health information exchange activities.
- State Medicaid programs have some flexibility in how they use the administrative funds for promoting adoption and health information exchange activities.
- New York State has made significant investments focused almost exclusively on information exchange and adoption assistance to physician offices, with no direct funding going to hospitals.

Recommendation:

- GNYHA recommends that DOH consider committing a portion of the administrative funds it will receive to assisting hospitals with adoption and meeting "meaningful use" requirements.
  - In doing this, GNYHA recommends that DOH convene the hospital community to develop an appropriate strategy for adoption assistance.

New York State Administrative Funds: Options

Recommendation (cont.):

- The focus of the services that could be funded under the Medicaid EHR Program include the following:
  - Assistance with assessment and planning for an HIT Implementation: providing guidance on vendor contracting, and assessing HIT systems and needs.
  - Assistance during the HIT implementation: offering guidance on selecting a system, managing consultants, training staff, choosing a vendor, strategic governance, and workflow redesign.
  - Assistance with designing systems that enable "meaningful use" of EHRs: exploring the use of HIT to advance national health care goals, such as preventing avoidable readmissions, implementing components of the medical home model, and developing quality dashboards.

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