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TESTIMONY OF ALAN AVILES
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On behalf of

THE NATIONAL ASSOCIATION OF PUBLIC HOSPITALS & HEALTH SYSTEMS

before the

HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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Mr. Chairman, members of the Committee, I am Alan Aviles, President of the New York City Health and Hospitals Corporation (HHC). I am pleased to have this opportunity to testify this morning on behalf of the National Association of Public Hospitals & Health Systems (NAPH). Both HHC and NAPH are grateful to your Committee for conducting this important oversight hearing on a series of regulations issued by the federal Centers for Medicare and Medicaid Services (CMS) over the last several months.

NAPH is concerned about the severe adverse impact of all the regulations you are reviewing today. I will focus my attention this morning primarily on the Medicaid cost limit regulation, which is subject to a Congressionally-adopted one-year moratorium until May of 2008. If that regulation is permitted to go into effect, it has the potential to devastate essential safety net hospitals and health systems in many parts of the country. In addition to the Medicaid cost limit regulation, HHC and other NAPH members will be severely impacted by the proposed CMS rule affecting Graduate Medical Education (GME), which my colleague from the Virginia Commonwealth University, Sheldon Retchin, MD, is here to address (and which is also subject to the one-year moratorium). Additionally, safety net hospitals will be affected adversely by a proposed Medicaid outpatient payment regulation that CMS recently published. NAPH filed comments earlier this week strenuously opposing that outpatient rule, which we believe violates the Congressional moratorium. Attached are NAPH comments on all three of these regulations, which have been filed with CMS.

I would like to accomplish three things in my prepared testimony this morning:

First, I will provide the committee with some general background information about HHC and NAPH, with particular attention to the vital role HHC and other NAPH members play in our nation's health system.

Second, I will describe the potentially devastating impact that the regulations proposed by CMS will have on safety net hospitals and health systems around the country – and on the vulnerable patient populations we serve.

Third, I will ask the members of this Committee to join with the large and growing number of your House colleagues in bipartisan support for legislation to prohibit CMS from implementing these new regulations.

Let me first say a few words about HHC and NAPH.

HHC is the largest municipal health care system in the country. We provide health care to 1.3 million New Yorkers every year. Nearly 400,000 have no health insurance. We operate eleven acute care hospitals, four skilled nursing facilities, six large diagnostic and treatment centers, more than eighty community clinics and a home health program. More than 60% of our budget comes from Medicaid.

NAPH represents more than 100 of America's most important safety net hospitals and health systems. These facilities provide high-quality health services for all patients, including the uninsured and underinsured, regardless of their ability to pay. In addition to functioning as the country's default national health insurance system, public hospitals provide many essential community-wide services, such as primary care, trauma care, and neonatal intensive care. Public hospitals are also an essential component of our nation's fragile ability to respond to natural and man-made emergencies. NAPH members have been on the frontline of many recent crises. These range from the extraordinary role played by HHC staff and facilities after the tragic events of September 11, 2001, to the essential services provided by my colleagues around the country in the wake of hurricanes, earthquakes, local disasters – like the recent Minneapolis bridge collapse – and the devastating fires this month in Southern California. Finally, most NAPH members are also major teaching hospitals that train many of America's doctors, nurses, and other health care providers.

It may be helpful to show how that national role translates into services in communities across the country. For example:

- HHC facilities treat nearly 20% of all general hospital discharges and 40% of all inpatient and hospital-based outpatient mental health services in New York City. One-third of New York City's emergency room visits occur in HHC's hospitals and we provide 5 million outpatient visits every year.

- In Los Angeles, patients rely on public hospitals for 35 percent of emergency room visits and public hospitals staff 100 percent of burn treatment hospital beds.

- In Houston, over 40 percent of all patients come to public hospitals for outpatient care and nearly one in four babies are born in public hospitals.

- In Miami, the only place patients can access a Level I Trauma Center is at a public hospital.

- In Columbus, Ohio, public hospitals staff one-third of all outpatient visits and nearly one-third of days patients spend in the hospital. Additionally, public hospitals staff 100 percent of burn care treatment beds in the city.

- In Chicago, nearly one in five emergency room visits are at public hospitals and public hospitals staff half of all burn beds.

With that background, let me turn my attention to the impact of the Medicaid cost limit regulation on the nation's health safety net. I will not take time to describe the regulation in detail. Suffice it to say that several aspects of the regulation would severely damage safety net hospitals and health systems and limit the ability of many states to provide vital Medicaid payments to such providers. CMS itself estimates that over $5 billion in funding would be cut from the program over five years. Based on publicly-submitted comments filed with CMS, press accounts and information from public hospitals around the country provided to NAPH, we believe the impact would be substantially greater than that, and most of that impact would fall on safety net hospitals.

The estimated financial impact around the country includes the following publicly-reported examples:

- In New York, we have estimated that up to $200 million in annual funding will be eliminated.
- In California, a $550 million annual cut is expected.
- In Florida, at least a $932 million annual cut is expected.
- The publicly reported annual impact estimated for other states include: Minnesota ($100 million), Tennessee ($250 million), Indiana ($40 million), Georgia ($204 million) and North Carolina ($340 million).

As alarming as those numbers are by themselves, their real impact will translate into the reduction or elimination of essential services for our most vulnerable patients and the potential for diminished community-wide services, such as trauma care. While it is not always possible to predict with precision which services would be reduced or eliminated, let me give you a few examples of decisions that might be required if public hospitals are faced with Medicaid cuts of this magnitude. Many of these examples are already on the public record, either in comments filed with CMS or public statements reported in the press. Additionally a number of my colleagues from public hospital systems in cities across the country provided comments for the public record for this hearing.

- I have been publicly quoted as saying that, in New York City, we would have to dismantle our ambulatory care system and scale down our emergency departments. These Medicaid funds help to support our extensive primary care network that prioritizes prevention, early detection of disease and engagement of patients in the management of their chronic conditions. These funds also support the provision of prescription

medications to hundreds of thousands of low-income New Yorkers; and the operations of our eleven public hospitals' emergency departments and six trauma centers rely on Medicaid funding.

- In California, Dr. Bruce Chernoff, Chief Executive Officer of the Los Angeles County Department of Health Services has said: "It's the equivalent to shutting down all the outpatient clinics we own and operate, as well as those we contract with in the community." [Los Angeles Times, 2/24/07]

- In California, Gene Marie O'Connell, San Francisco General Hospital Chief Executive Officer and Chair of NAPH, states: "San Francisco General Hospital is just holding its head above water with current rates. The impact from the Medicaid cost limit rule means the loss of $24 million, and from the GME rule an additional $5 million. If these rules become reality we would need to close three nursing units or 90 beds (out of 550 beds) -- which would have a dire impact on services to the residents of San Francisco."

- In Colorado, Dr. Patricia Gabow, Denver Health Chief Executive Officer and Medical Director, states: "We need Congress to stop these rules. The impact of this rule on Denver Health would be devastating. We might as well turn over the keys. We would no longer be able to serve as the major safety net system for Denver and Colorado and the region. The health of the entire community would be comprised through the impact on our trauma system, our disaster preparedness and public health."

- In Colorado, Jeff Thompson, Director of Government and Corporate Relations at University of Colorado Hospital, has said: "We have the potential of literally having to shut off our care for the medically indigent. It would mean people who have chronic or long-term illnesses - like cancer - would suffer. They simply would not have any outlet for care." [The DenverChannel.com, 3/1/2007]

- In Texas, David Lopez, Chief Executive Officer of the Harris County Hospital District, has said: "If the district loses $70 million, it may have to cut services and increase the time that patients wait to get treatment….." [Houston Chronicle, 1/27/2007]

- In Florida, Jackson Memorial Chief Executive Officer Marvin O'Quinn says: "Fewer services would be inevitable… already-lengthy ER waits will be stretched even longer; and some people may not get treated. Medical decisions would be difficult: Does a hospital cut a transplant program, primary care or doctors' salaries?" [Miami Herald, 2/25/2007]

- In Missouri, John Bluford, President and Chief Executive Officer of Truman Medical Centers states: "The various Medicaid regulations proposed by CMS would have at least a $37 million annual impact on Truman Medical Centers (TMC). Such a cut would be potentially devastating to TMC. We would face the impossible task of choosing which services to dramatically restrict, such as Emergency Room availability/trauma and necessary outpatient services. The cuts would clearly force TMC to reduce primary and preventative services, resulting in a much, much greater downstream cost to all."

- In Iowa, Jody Jenner, the Chief Executive Officer of Broadlawns Medical Center in Des Moines states: "Broadlawns Medical Center could lose approximately $700,000 from the GME proposed rule alone. A loss like that would mean closing down our teaching program, jeopardizing the training of physicians who serve in rural communities throughout Iowa."

- In Georgia, the Grady Health System has already announced plans to eliminate dialysis services and faces a substantial fiscal crisis even without the threat posed by the new regulations. [Atlanta Business Chronicle, 10/22/07]

- In Minnesota, Lynn Abrahamsen, Chief Executive Officer of Hennepin County Medical Center states: "Hennepin County Medical Center was there when our city needed us when the 35W Bridge collapsed on August 1. If Congress doesn't stop these rules, our ability to stand ready as Minnesota's largest Level I Trauma Center would be at risk!"

In conclusion, the harm this rule will cause will not be limited to safety net hospitals and the patients they serve. It will harm everyone's access to life-saving care. Hospitals like those in the HHC system support vital but unprofitable services like trauma centers, burn units, poison control centers and disaster response capabilities. If we are forced to downsize or close huge numbers of patients will be displaced into a private hospital system that is already badly overloaded. Everyone's care will be affected – insured and uninsured patients alike.

Permit me to thank the members of this Committee, and the 267 members of the full House, for your support in imposing a one-year moratorium on the implementation of the Medicaid cost limit and GME regulations last May. The strong bipartisan support has been essential to the efforts of HHC and my colleagues around the country to continue to carry out our safety net mission. Twenty-eight members of this Committee are on record in opposition to these cuts.

We urge Congress to act now to stop these rules and to reaffirm your role in setting Medicaid policy for this country. We believe that CMS ignored Congress and violated federal law by moving forward to implement several of these Medicaid regulations. States and public hospitals must plan for worst case scenarios that Congress never intended. We are counting on Congress to come to our aid before it's too late – to tell CMS in no uncertain terms that safety net providers must be protected as essential components of our nation's health system.

We need the Congress to move quickly – by the end of this calendar year – to prohibit CMS from implementing the Medicaid cost limit, GME and Medicaid outpatient regulations. We strongly urge the members of this committee to support and cosponsor H.R. 3533, a bill introduced by my New York Congressman Eliot Engel (D-NY) and Sue Myrick (R-NC), which has 133 cosponsors as of this past Monday.

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Once again, I thank you for granting me the opportunity to speak with you this morning. I would be happy to answer any questions you may have.