Home Health

BUSINESS REPORT

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A WEEKLY REPORT ON NEWS, TRENDS & STRATEGIES FOR THE HOME HEALTHCARE EXECUTIVE

Congress struggles to find a remedy for BBA woes

By MATTHEW HAY
***HHBR* Washington Correspondent**

WASHINGTON – House Ways and Means Health Subcommittee Chairman Bill Thomas (R-CA) last week urged the **Health Care Financing Administration** (HCFA; Baltimore) to take all of the administrative actions the agency can to alleviate the burden on home health agencies and other providers stemming from the Balanced Budget Act of 1997 (BBA).

As Congress struggles to develop a legislative remedy, Thomas told HCFA Deputy Administrator Mike Hash at a hearing on BBA reforms Oct. 1 that the administration should offer its own plan to correct Medicare payment problems caused by the BBA.

Thomas told Hash that the total amount of Medicare funds that should be restored probably falls somewhere between the $7.5 billion over 10 years that the administration called for in its Medicare proposal and the $20 billion over five years included in legislation recently introduced by the Senate Democratic leadership.

Thomas added that when Congress and the administration passed the sweeping reforms two years ago, Congress expected HCFA to monitor those changes. However, while many of the more than 300 changes called for by the BBA have been implemented, he said HCFA has failed to implement others. According to Thomas, many of those delays are responsible for significant savings that could now be returned to providers on a budget neutral basis.

Meanwhile, subcommittee member Rep. Sam Johnson (R-TX) suggested HCFA has been using Y2K modifications as an excuse for not implementing BBA changes on time. But Hash maintained that the agency expects to return to its "regular activities" by year's end.

William Scanlon of the **General Accounting Office** and Gail Wilensky of the **Medicare Payment Advisory Commission** also testified before the subcommittee, but

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Attendance expected to rise for NAHC's annual meeting in SD

By LEE LANDENBERGER
***HHBR* Managing Editor**

This coming weekend, the faithful begin arriving in San Diego for homecare's biggest annual meeting, giving them a chance to mingle with fellow home healthcare workers, learn some new tricks through the many seminars that will be offered, examine new products, and ponder the future of their turbulent industry.

The **National Association for Home Care**'s (NAHC; Washington) Annual Meeting and HOMECAREExpo will attract primarily owners, administrators, directors, and those who control the purse strings of homecare agencies, visiting nurse associations, and hospices from around the nation. Buying new products is quite a lure to the meeting. Statistics given out by NAHC reflect the urge to buy as 45% of those attending will represent "the highest level of buying authority – agency owners or top-level executives."

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HCFA suspends new advance beneficiary notice requirement

By MATTHEW HAY
***HHBR* Washington Correspondent**

WASHINGTON – The **Health Care Financing Administration** announced Sept. 30 it has temporarily suspended implementation of the Home Health Advance Beneficiary Notice requirements. The requirements were supposed to take effect last week. HCFA's about-face followed a campaign by the **National Association for Home Care** (NAHC) that culminated in meetings with the Office of Management and Budget (OMB) last week.

On Sept 10, NAHC urged HCFA Deputy Administrator

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Holiday schedule

Because *HHBR*'s offices will be closed next Monday, Oct. 11, in observance of Columbus Day, fax subscribers will receive next week's issue on Tuesday, Oct. 12 .

Star Multi Care looking to return to profitability by restructuring

By MEREDITH BONNER
***HHBR* Editor**

Star Multi Care (Huntington Station, NY) has completed a restructuring that it hopes will return the troubled company to profitability. But it is not ruling out other options for relief, including a sale or merger of the company or taking the company private.

Star CEO Stephen Sternbach told *HHBR* that he is looking at various options for the company, not ruling out anything.

"We are in active discussions with several players in the industry," he said, adding that he hopes to "put some transaction together within the next six to nine months." Sternbach gave no details about the interested parties or what types of deals are being discussed.

Star has recently scaled down its operations in some areas, going from a $57 million company to a $42 million company. Star also has dropped its Medicare operations, which Sternbach said were not making any money for the company. Medicare operations accounted for 15% of the company's revenues.

"We looked at particular businesses and eliminated businesses that were below profit margins," said Sternbach. Medicare operations were dropped in Florida first, then all operations were eliminated. In Syracuse, NY, Sternbach said, some operations were eliminated because of low profit margins.

"The restructuring was to right size the company," Sternbach told *HHBR*. "We wanted to consolidate branches to form larger branches to gain profitability again. Now we are right sized, and we will now take a company that is right sized and has good profit margins, and start new to make it a company that has good business books and maintains profitability.

"We have made projections that we will be profitable this year," he added. "We have told the public we are going to be – and we will be."

Star's FY99 revenues were $47.1 million, compared to FY98 revenues of $49.3 million. The company posted a net loss in FY99 of $1.6 million, 30 cents per share, compared to an FY98 net loss of $4.2 million, 84 cents per share.

In mid-September, Star was told by Nasdaq that it no longer met certain criteria for continued listing on its National Market System. Star, at that time, had fallen below the $5 million minimum market value of its public float necessary for continued listing.

Star's home health services include both skilled and unskilled nursing, and respiratory therapy. Operations are in five states: Florida, New Jersey, New York, Ohio, and Pennsylvania. ■

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COMPANIES IN THE NEWS

Coram explores alternatives for CPS

Coram Healthcare (Denver) has engaged **Deutsche Alex. Brown** to work with the company to explore strategic alternatives for its **Coram Prescription Services** (CPS) division, which provides mail-order pharmacy services and disease management programs. With the launch of *www.corampharmacy.com*, scheduled for 1Q00, CPS will extend its service reach with on-line transactional capabilities on the Internet. In May, CPS chose **Mediconsult.com** to promote its new site. Under the agreement with Mediconsult.com, CPS became the exclusive on-line prescription and over-the-counter product provider to Mediconsult.com's visitor base.

Coram CEO Richard Smith said that while CPS has been a growth story for the company, "it is appropriate at this time to ascertain the market value of CPS and consider all options to strengthen the company's balance sheet." He added that at the same time, Coram "plans to maintain a close business relationship with CPS, which would continue to benefit the company's Infusion division and Clinical Research and Medical Informatics division, as well as continue to enhance CPS' business through joint marketing and breadth of service offerings."

In other news, the **Internal Revenue Service** (IRS; Washington) demanded Coram pay $12.7 million in additional taxes for FY87-FY91, reported the *Denver Business Journal*. Coram, on behalf of its **T2 Medical** subsidiary, filed a petition asking the U.S. Tax Court in Denver to overturn the IRS ruling, saying the IRS erroneously denied it more than $41 million in deductions for abandoned goodwill and for the settlement of litigation brought by T2 stockholders. In a filing with the **Securities and Exchange Commission** (Washington), Coram vowed to "contest the notice of deficiency through administrative proceedings or litigation and will vigorously defend its current position."

GF board member resigns

Graham-Field Health Products' (GF; Bay Shore, NY) Rex Fuqua has resigned from the board. Fuqua served as a director of GF from January 1998 to April 1998 and from July 1998 to present.

HealthCor creditors sue indenture trustee

HealthCor Holdings' (Dallas) official committee of unsecured creditors has filed suit against the indenture trustee for the company's senior notes seeking to avoid as preferential transfers the liens in substantially all of the assets of the company and its affiliates, which were granted to the bank about one month prior to the petition date. The transfers made to indenture trustee **Norwest Bank Minnesota** were for or on account of a prior debt owed by the company and were made while the company was insolvent, the committee said.

The transfers, which occurred less than 90 days before the company's July 27 petition date, enabled Norwest to receive more than it would receive if the bankruptcy case were pending under Chapter 7. The transfers had not been made, and Norwest received payment of its debt to the extent provided under Chapter 11, the committee said.

At the time HealthCor and its affiliates entered into the indenture with Norwest on Dec. 1, 1997, pursuant to which $80 million in senior notes due in 2004 were issued, the companies' respective obligations under the indenture, and the notes were unsecured. After the companies defaulted under the terms of indenture by failing to make interest payments due under the notes on Dec. 1, 1998, and June 1, the companies and Norwest amended the indenture. The amended indenture, entered into on June 24, granted Norwest liens on all or substantially all of the companies' respective assets.

The U.S. Bankruptcy Court in Dallas on Aug. 25 authorized the committee to bring the action against Norwest on HealthCor's behalf.

HHCA asks for more time to restructure

Home Health Corp. of America (HHCA; King of Prussia, PA) is seeking to extend its exclusive periods to file a reorganization plan and solicit plan acceptances to Oct. 29 and Dec. 29, respectively. In a Sept. 21 motion, HHCA argued that "termination of the exclusive periods and the threat of multiple plans filed by other parties would likely lead to an adversarial situation that will cause a deterioration in the debtors' businesses and the value of their estates."

HHCA also said that although substantial progress has been made in drafting a reorganization plan, "more time is needed to finalize certain of the operational issues related to the business plan . . . and to flesh out the particulars of implementation of a plan."

HHCA's motion marks the third time the company has sought an exclusivity extension since it filed for bankruptcy on Feb. 18, when it said it was unable to overcome severe liquidity problems caused by various factors. The company's current exclusive period to file a plan was scheduled to expire on Sept. 30, and the exclusive period to solicit acceptances is scheduled to expire Nov. 29. A hearing on the latest request is slated for Oct. 12 before the U.S. Bankruptcy Court in Wilmington, DE. Objections are due Oct. 8.

In a related matter, HHCA wants court authorization to sell its Lombard, IL, operations to **Midwest Home Health Care** for $550,000. The proposed sale will be free and clear of any and all liens, claims, and encumbrances, according to HHCA. HHCA said the deal provides a significantly greater realization for the assets proposed to be sold than

through the liquidation value that would be obtained if the assets were not sold quickly and the business was forced to abruptly cease operations. The company added that the sale is in the best interests of the debtors, their creditors, and the estates.

The operations in Lombard, IL, will be subject to competitive bidding at an auction, but HHCA said it is unaware of any third parties who are ready, willing, and able to close upon the same or more favorable terms that Midwest's offer of $550,000.

Infu-Tech recommended by BrookStreet

Infu-Tech (Englewood Cliffs, NJ) has been given a "strong buy" recommendation from **BrookSt.com**, a division of **BrookStreet Securities Corp**. The new recommendation initiates coverage of the company by BrookSt.

Invacare one of best companies for employees

Invacare (Elyria, OH) has been selected by the **Employers Resource Council** (ERC) as one of the best companies to work for in northeast Ohio, based on its policies and programs in compensation and benefits, safety and health, diversity, recruitment and selection, work and family issues, community involvement, and training and education. The award was presented jointly by the ERC and **Enterprise Development**, a nonprofit subsidiary of Case Western Reserve University and a cooperative venture of the Weatherhead School of Management.

Lexington sees 32% increase in FY99 revenues

Lexington Healthcare (Farmington, CT) reported FY99 ended June 30 revenues of $76.9 million, a 32% increase from FY98 revenues of $58.3 million. The company recorded a net loss in FY99 of $1.6 million, 38 cents per share, compared to a net income in FY98 of $30,000, 1 cent per share.

The increase in FY99 revenues from FY98 revenues was the result of the addition of four nursing homes under management contract and growth in the company's home care, medical supply, and therapy subsidiaries, and its pharmacy joint venture, Lexington said. The company acquired the operations of two of those managed buildings in September and returned the other two to the owner. The new prospective payment system had a negative affect on revenues and income, Lexington said.

Olsten Health Services signs agreement

Olsten Health Services (Melville, NY) signed an agreement with **Mutual of Omaha**. Under the agreement, **Olsten Health Services Network** will become one of Mutual of Omaha's preferred providers for home care nursing and therapy services, home infusion therapy, home medical equipment, and respiratory therapy. The Olsten Health Services Network division works with managed care organizations to reduce their total cost of providing home care by managing their home care networks, administering their home care benefits through an extensive list of credentialed providers that are compliant with NCQA standards, and providing home care for patients under the direction of their medical management groups.

Staff Builders confirms date for spin-off

Staff Builders (Lake Success, NY) has set a record date of Oct. 12 for the spin-off of its **Tender Loving Care Health Care Services** division. The spin-off will be accomplished through a distribution of one share of TLC common stock for every two shares of Staff Builders common stock outstanding on the record date. Staff Builders' stockholders of record on such date will not be required to pay for any share of TLC common stock distributed to them or to take any action to receive such shares. Staff Builders anticipates that the spin off will be complete by the end of October. ■

NAHC

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Last year's annual NAHC meeting, held in Atlanta, featured about 4,000 attendees and 550 exhibitors. The number was lower than 1997's annual meeting, held in Boston, in which about 5,400 home health workers attended. NAHC's director of public relations, Valerie Tully, told *HHBR* on Monday that while she did not have final numbers for this year's meeting, she expected the number of attendees to exceed last year's number and the number of exhibitors to be about the same.

Keeping abreast of new products and applications was the No. 1 reason given for attending the expo, as 74% have said it was their prime motivation for attending. Not far behind, at 73%, was the opportunity to exchange ideas with their peers.

NAHC officials estimate from 3,000 to 4,000 home health workers will attend the annual meeting, whose theme is "Demography is Destiny." NAHC committee meetings begin Oct. 10, opening the way for many meetings and seminars to follow. The meeting wraps up the following Wednesday, Oct. 13.

Among the highlights are the Hospice Association of America's annual meeting, which is on Monday, Oct. 11; two keynote address will be given Tuesday, Oct. 12, as NAHC President Val Halamandaris speaks on "Demography is Destiny: Creating a New Vision in Response to Mega-trends," and Carl Hammerschlag speaks about "Healing Individuals and Organizations Through Psychoneuroimmunology." The general session on Wednesday, Oct. 13, will feature Dr. Peter Johnson, a specialist in marketing strategies and strategic business planning, who will speak on "Managing the Turbulence of Change Facing Home Care in the New Millennium."

The annual meeting also features 19 program tracks with seminars in hospice, legal issues, home medical equipment, risk management, telehealth, and others.

It will be held at the San Diego Convention Center. For more information, call NAHC at (202) 547-7424. ■

MANAGED CARE REPORT

• A New York insurance broker has sued **Oxford Health Plans** (Norwalk, CT), alleging that the company has sought to charge some customers rates that were much higher than allowed by state law as part of its effort to recover from a financial debacle in FY97 and FY98. In the suit, the broker also charged that the company offered to rebate a substantial portion of a premium to one of its large accounts to reach an agreement on a rate, reported *Dow Jones Business News*. In addition, the suit charges that Oxford canceled its contract with the broker in retaliation for the broker's contesting the high premiums on behalf of its clients and complaining to state insurance regulators that Oxford was engaging in unlawful practices. The broker is seeking $20 million in compensatory damages, *Dow Jones* reported. Oxford said in a statement that it "intends to vigorously defend this lawsuit and our decision to terminate (the broker)." Oxford said it stands behind its premium pricing and said "the allegations in the complaint are without merit."

• **Blue Cross of California** (Thousand Oaks, CA), the California subsidiary of **WellPoint Health Networks**, was recently named Blue Ribbon HMO by the **Pacific Group on Health** (San Francisco). The Blue Ribbon Award recognizes leadership and excellence among California's health plans. Key criteria include quality, value, data capabilities, and a demonstrated commitment to collaborative projects with purchasers and providers.

• **Aetna** (Hartford, CT), the parent company of **Aetna U.S. Healthcare** (Blue Bell, PA), said its board has adopted a new shareholder rights plan that will strengthen the board's ability to respond to hostile takeovers and maximize shareholder value as such takeover attempts surface. But Aetna said the action is not in response to any known effort to acquire control of the company. The new rights plan will replace the existing, 10-year-old rights plan set to expire Nov. 8 and includes two new provisions. First, it will remove a provision that allowed the board to reduce the triggering ownership level to 10%. Instead it will provide for the automatic distribution of one right for each share of Aetna stock to shareholders of record as of Nov. 8. Second, the new plan will provide for independent directors to review the rights plan at least once every three years and recommend if it should be continued or amended. In other news, Aetna's stock fell last week, according to the *Wall Street Journal*, as healthcare analysts grew concerned that the company's **Prudential HealthCare** unit is losing more money than expected and that a recovery might be far in the future. Aetna said Prudential, which it acquired in August for $1 billion, is losing money at an annual rate of $200 million – twice as much as expected, the *Journal* reported.

• **Beyond Benefits** (Long Beach, CA) will purchase **HealthStar** (Chicago), a PPO, from **HealthStar Corp**. (Scottsdale, AZ). HealthStar has 2,086 hospitals and 139,624 primary care physicians and specialists under contract in 39 states.

• **Humana** (Louisville, KY) has entered into a partnership with **Physicians Group Services** (Jacksonville, FL) to operate eight north Florida medical centers formerly operated by **FPA Medical Management**. The agreement was effective Sept. 1. Humana assumed operation responsibility for 50 former FPA centers on June 1 as part of an agreement with FPA, approved by the federal bankruptcy court overseeing FPA's Chapter 11 reorganization, said Humana. Since then, as a result of the new agreement and similar transactions over the past several weeks, Humana no longer operates 29 of the 50 centers. Humana plans to transfer operation of all the former FPA centers to other provider groups to focus exclusively on health insurance. ■

BRIEFLY NOTED

• The **American Association for Respiratory Care** (AARC; Dallas) said a study released last week by **Muse & Associates** (Washington) showed that respiratory therapists reduce deaths by 42% and save Medicare $98 million a year. The study showed that the death rate for Medicare nursing home patients with lung problems is significantly lower for those treated by respiratory therapists (RT) than for those not treated by an RT. The study showed that lung patients who received care from an RT in a skilled nursing facility had a 42% lower death rate – 4.8 deaths per 1,000 patients as opposed to 8.3 deaths per 1,000 patients not treated by an RT. The report also revealed evidence that care delivered by RTs produces not only improved patient outcomes, but also significant cost savings.

• Representatives from the **Joint Commission on Accreditation of Healthcare Organizations** (JCAHO; Oakbrook Terrace, IL) say accreditation is going to get tougher for home care agencies, reported *Drug Topics*. Faced with criticism by the federal government and demands by the public for increased accountability in medical care, JCAHO is considering a reformulation of how it "goes forward", *Drug Topics* reported. The organization has established a task force to develop improved accreditation processes in cooperation with the subject organizations. JCAHO said it is going to conduct a series of focus groups over the next year, including a home care focus group. One thrust of the new approach will be an emphasis on patient safety, JCAHO said. ■

Congress

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Thomas and other subcommittee members were clearly zeroing in on HCFA.

Thomas outlined a series of administrative changes he said HCFA could implement immediately. He told Hash that while Congress typically tries to make reforms over a five- to 10-year period, the situation facing many providers is so severe that Congress and the administration should focus on what can be implemented over the next six to nine months.

"Time is short," he told Hash. "But there may be a difference between what the administration can do and what the administration will do."

Addressing home health, Hash responded with a familiar litany of steps the agency has already taken to soften the blow on agencies.

In addition to increasing the time for repayment of overpayments related to the interim payment system from one year to three years (with one year interest free), Hash noted that HCFA is postponing the requirement for surety bonds until Oct. 1, 2000 and following the recommendation of the GAO by requiring all agencies to obtain bonds of only $50,000, instead of 15% of annual agency Medicare revenues as originally proposed. Hash added no additional regulatory relief.

Thomas said the subcommittee will complete a package of BBA reforms as soon as the Congressional Budget Office (CBO) scores the proposed changes.

"I would have preferred to do it last week and I would have preferred to do it this week," he told his colleagues.

But while anecdotes are useful, he said the subcommittee needs the hard data on the cost of proposed changes that only CBO can deliver.

There has been "no lack of suggestions" by Congress about BBA reforms, but as much as possible the subcommittee needs CBO's estimate of the impact those changes will have, Thomas said.

Senate Democrats offer proposal

The latest legislative remedy was introduced last week by the Senate Minority Leader Tom Daschle (D-SD).

The Medicare Beneficiary Access to Care Act would postpone the 15% across-the-board cut in home health reimbursement scheduled for Oct. 1, 2000 for two years and increase the per visit limit for agencies "disadvantaged under the IPS" to 112% of the median. It would also eliminate three burdensome regulatory measures, including interest on overpayments, the 15-minute incremental reporting requirement and consolidated billing for durable medical equipment.

Pointing to the fact that the BBA included a cut in the updates to hospice payments, despite the fact that those payments have not been rebased since 1982, Daschle's bill also would restore full market basket increases to hospice rates.

Home care providers caution against further cuts

Pamela Bataillon, vice president of **Visiting Nurse Associations of America** (VNAA), told the subcommittee that BBA mandated changes have gone beyond congressional intent and have created backbreaking cost and cash flow problems for VNAs and other home care providers.

According to Bataillon, who also is a vice president of business development for the **Visiting Nurse Association of the Midlands** in Omaha, NE, her company has been forced to reduce its budget by $2.6 million , its staff by 42%, and its total volume of visits by 32% between August 1997 and August 1999. "In 1997, we were 11% under our cost caps," she told the subcommittee. "In 1998, we were 12% over cost caps. "

She said those actions have resulted in a 32% drop in revenues and a 42% drop in net assets (from $1.6 million to $974,000). Moreover, regulatory mandates such as OASIS and the 15-minute incremental billing requirement have increased its average cost per visit from $62.50 to $68.98.

Bataillon also told the subcommittee that because it is the biggest home care agency in Omaha, her company was the target of an Operation Restore Trust survey in 1999.

While the results of the survey turned up only two nursing visits and one occupational therapy visit that were technical denials, she said those determinations were extrapolated to all claims for that time period and resulted in a 9.5% denial rate of all nursing claims and a 100% denial rate of occupational therapy claims.

"Instead of having to repay $322.55 on the actual denied claims, we were subject to a projected overpayment of $24,255.76," Bataillon told the subcommittee. She said another 15% cut in revenues would decimate her company.

"We would seriously consider dropping out of the Medicare program because it could bankrupt the agency," she said. ■

HCFA

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Mike Hash to postpone the new mandate and consult with industry, but the agency instead requested "emergency clearance" of the new requirement from the OMB on Sept. 20.

HCFA's Sept. 30 memo instructs fiscal intermediaries to advise home health agencies that they are still obligated, under current regulations and instructions, "to issue meaningful notices to Medicare beneficiaries and to submit demand bills to Medicare for beneficiaries, when required to do so by beneficiaries."

A HCFA spokesman said the model notices published by HCFA in August can be used by home health agencies on a voluntary basis until the agency goes through the normal notice and comment period in order to implement the new rule. ■