

Navigating State and Federal Support During Financially Uncertain Times

June 28, 2022

- **Post-Covid Perfect Storm and Industry Trends Driving Transformation**
- **State and Federal Funding Update**
- **FEMA Upcoming Deadlines and Opportunities**
- **Approach to State Advocacy & State Tools to Assist**
- **Case Studies of Successful State Funding for Transformation**
- **Q&A**

The Post-COVID New Normal and The Perfect Storm



Supply chain issues and inflation driving up supply cost

- Gas and fuel prices are impacting the cost of basic supplies.
- Unlike other markets, these costs of goods are not easily passed to consumers (patients).



Workforce shortages driving extraordinary labor/agency Cost

- 37% increase in labor expenses per patient from 2019-2022. ¹
- Contract labor as percent of total labor increased 5X from 2% in 2019 to 11% in 2022. ^{ld.}
- Median wage rate for contract nurses was more than 3X higher wage rate for employed nurses. ^{ld.}



Patient/payor preference and technology continue to push more care outside the hospital

- Projected that by 2023, more than \$106 billion of U.S. health care spending could be on virtual care - compared to \$29 B today or 20%. ²
- Remote patient monitoring technology allows for more care to be provided at home. ^{ld.}
- More surgeries can be done safely in outpatient settings. Payors denying hospital-based procedures. ^{ld.}



Federal funding for lost revenue and COVID expenses drying up

- Federal programs provided financial support to hospitals and other providers over the last 2 years.
- Congress is unlikely to support additional programs/funding in the near future.

¹ <https://www.kaufmanhall.com/sites/default/files/2022-05/KH-NHFR-05-2022-May.pdf>

² <https://c8y.doxcdn.com/image/upload/v1599769894/Press%20Blog/Research%20Reports/2020-state-telemedicine-report.pdf>

“Ten Health Care Imperatives for the 2020s: Navigating Through the Surges” White paper and webinar series.



05.24.22

Ten Health Care Imperatives for the 2020s: Navigating Through the Surges

Manatt webinar take a fresh look at the 10 imperatives for advancing health through the lens of what we've learned through COVID-19.

Ten Health Care Imperatives for the 2020s



FOUR CHALLENGES TO REALIZING GREATER PROGRESS

Erosion of trust

Epidemic of behavioral health disorders

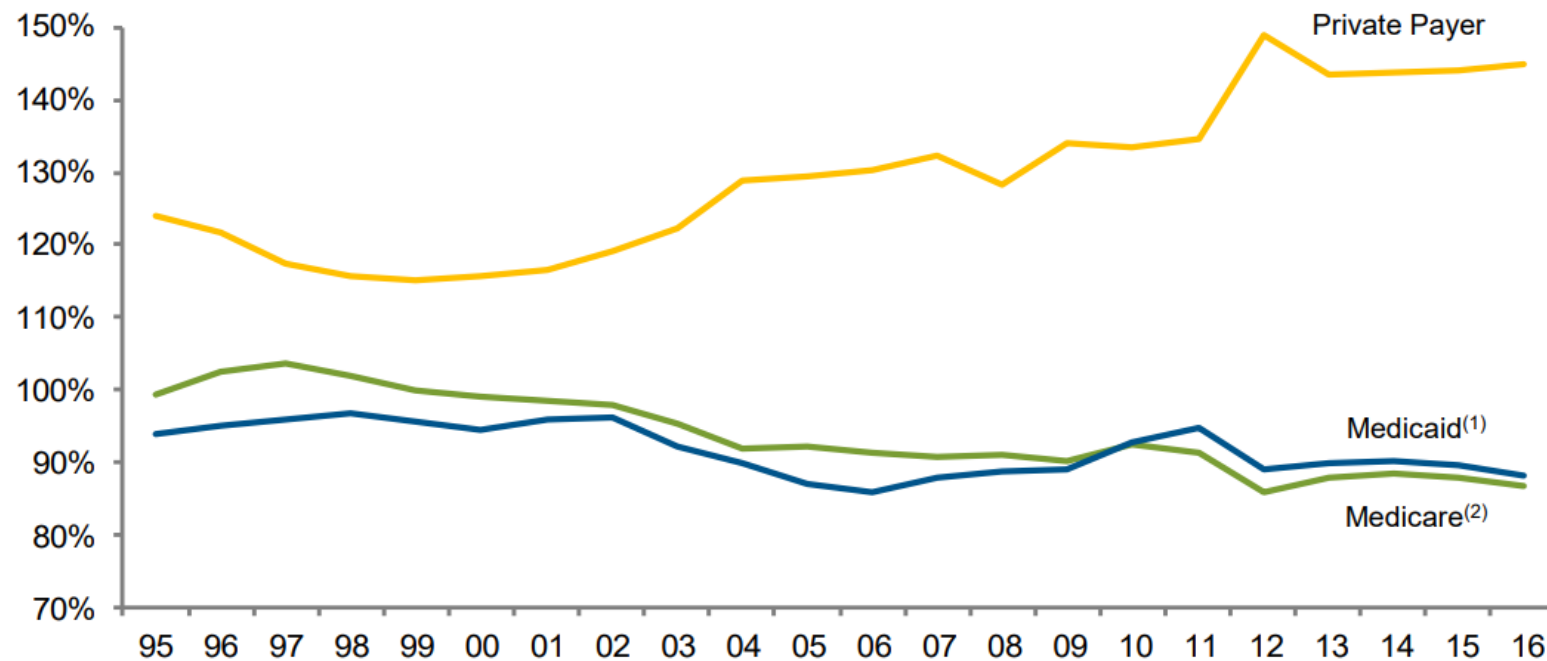
Persistent and widening disparities

Chronic workforce shortages and stresses

Commercial insurance may have reached a historic peak in January 2020. Increased governmental reimbursement will put cost pressure on healthcare systems everywhere.

Public payers reimburse providers below their cost

Hospital Payment-to-Cost Ratios for Private Payers, Medicare and Medicaid, 1995 – 2016



Source: Analysis of American Hospital Association Annual Survey data, 2016, for community hospitals.

⁽¹⁾ Includes Medicaid Disproportionate Share Hospital payments.

⁽²⁾ Includes Medicare Disproportionate Share Hospital payments.

Implications

- Clinical affiliates will have less capacity for mission support.
- Demand for clinical professionals trained in process engineering and health economics will increase.
- Demand for non-MD clinicians will increase as new models of care delivery are developed.

Source: American Hospital Association (2018). <https://www.aha.org/system/files/2018-07/2018-aha-chartbook.pdf>

Trends: Movement to Value-Based and Alternate Payment Models Expected to Continue Apace

After a brief pause due to the uncertainty of the pandemic, the momentum toward value-based and risk-based contracting between physicians, health systems and payers is expected to continue and likely to accelerate.

1. Growing focus on overall healthcare costs and affordability (or lack thereof) for consumers
2. Enrollment growth and medical inflation in Medicare and Medicaid coupled with pressures on the trust fund and state budgets
3. The rise of Medicare Advantage (which is projected to be the largest growth sector across all payers)
4. Heightened employer focus on cost-containment efforts
5. Consumer demand for more convenient care and care in less-traditional settings
6. Bipartisan support for value-based programming and value-based payment models

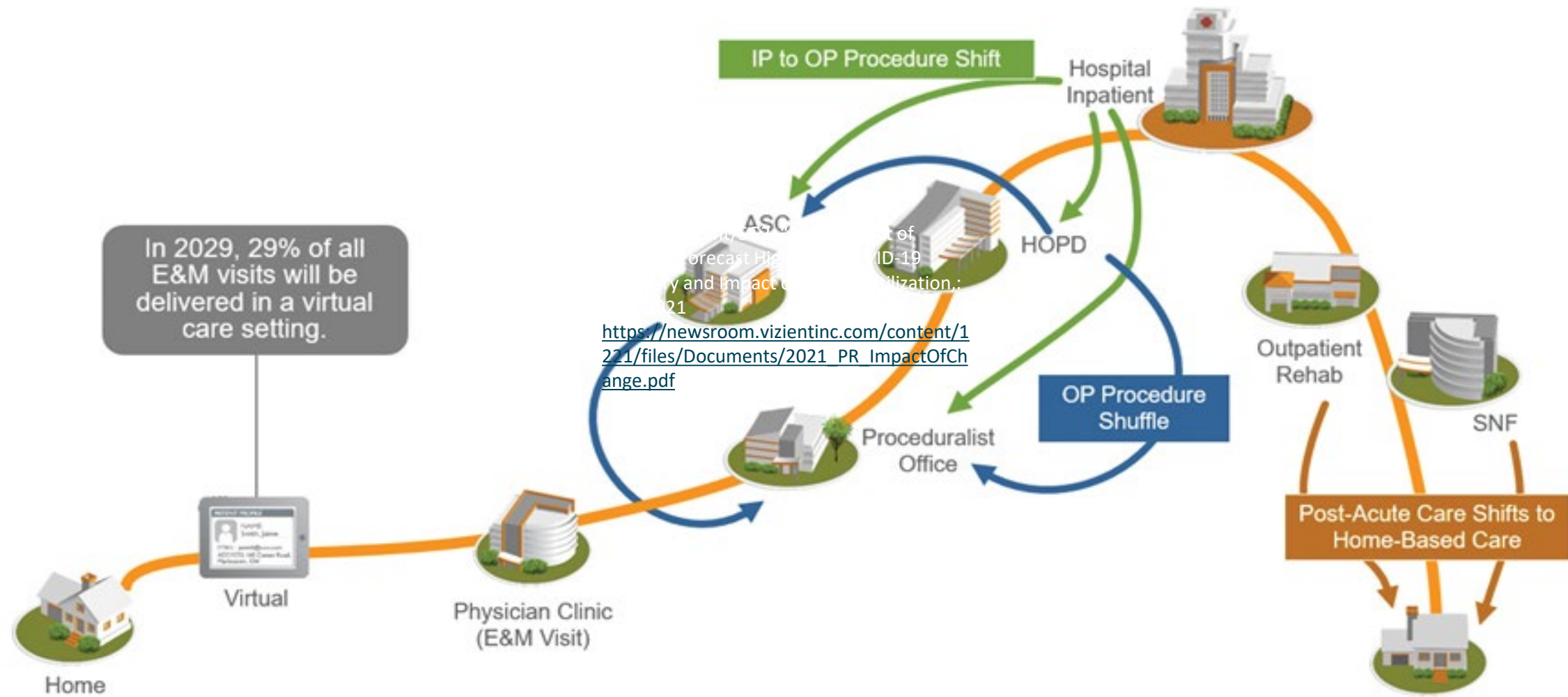
The percentage of value-based payments has risen three years in a row, and provider organizations are facing growing federal and state pressure to take on real risk in these arrangements.

- **36%** - More than a third of all reimbursement contracts nationally were value-based by 2019
- **54%** - Of physicians were participating in at least one accountable care organization in 2019
- Every national insurer now has a value-based cancer care program

Sources: American Medical Association: "A majority of physicians now take part in an ACO." Published: 2019; Health Care Payment Learning & Action Network: "2019 HCP-LAN APM Measurement Effort." Published: 2019.

Clinical and Technological Innovation Continue to Shift the Site of Care to Lower Cost Settings

Site of Care Shifts and Innovation Fuel Growth Trends Across Sites



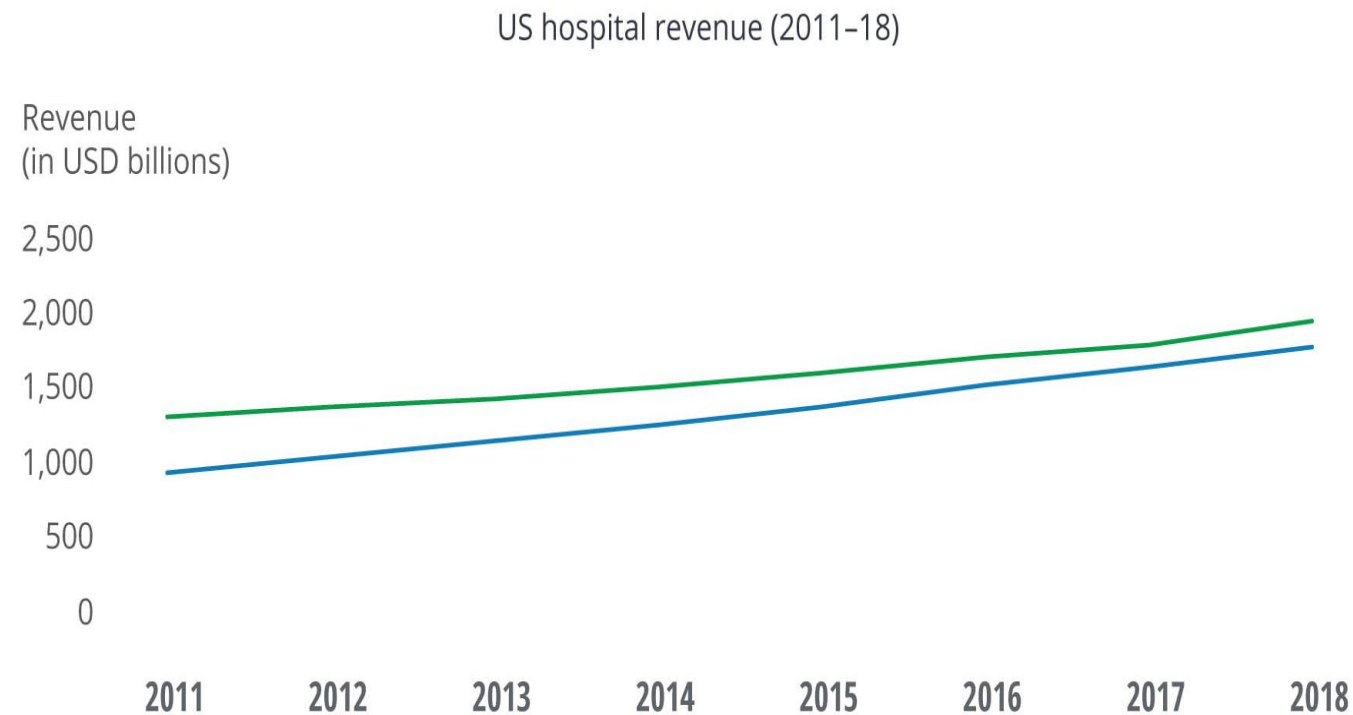
Source: Vizient/SG2 "2021 Impact of Change® Forecast Highlights COVID-19 Recovery and Impact on Future Utilization,": June 2021 https://newsroom.vizientinc.com/content/1221/files/Documents/2021_PR_ImpactOfChange.pdf

Trends: Nationally, Outpatient Growth is Significantly Outpacing Inpatient Growth Both In Terms of Volumes and Incremental Revenue Growth

For Most U.S. Health Systems, Outpatient Revenues Represent 50% (or More) of Overall Revenues

Inpatient and outpatient hospital revenue are converging

— Inpatient — Outpatient

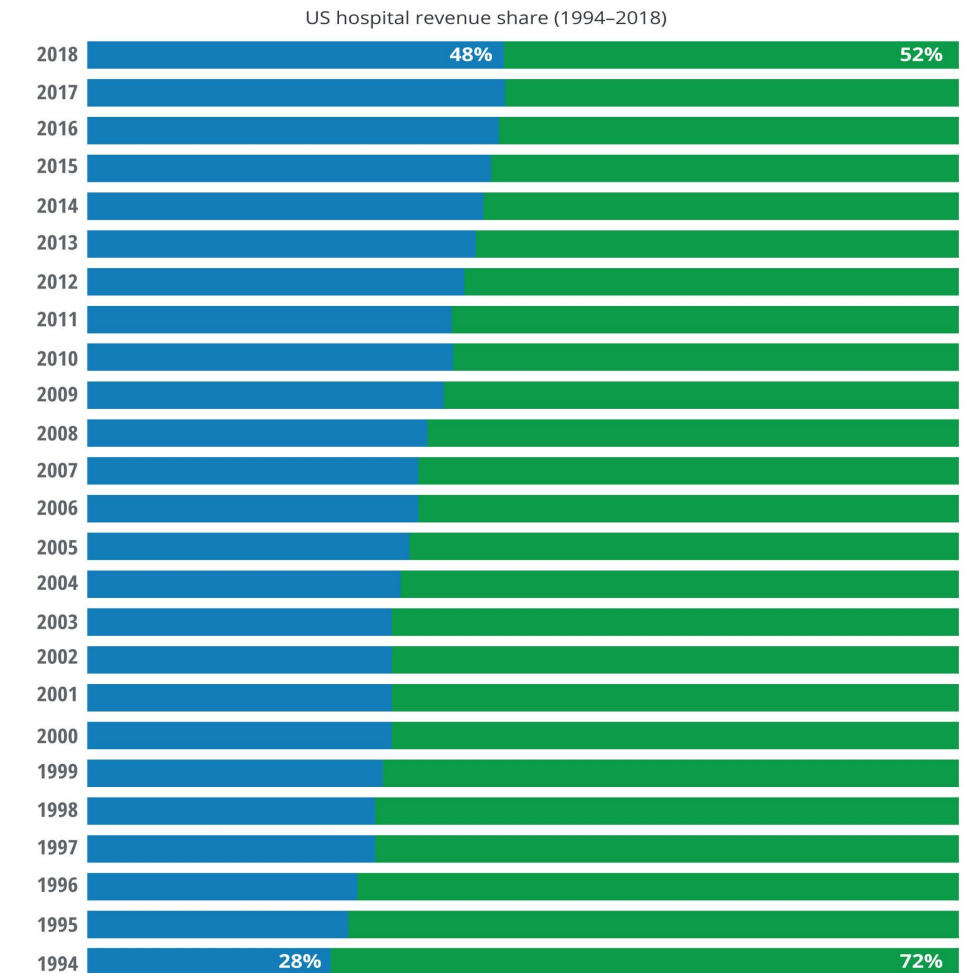


Note: Revenue figures are based on total revenue from hospitals, actual net revenue reported by hospitals might differ.

Source: Deloitte analysis based on data from Medicare Cost Reports (via IBM Truven Health Analytics).

Outpatient revenue is gaining on inpatient when it comes to share of total revenue

■ Outpatient ■ Inpatient

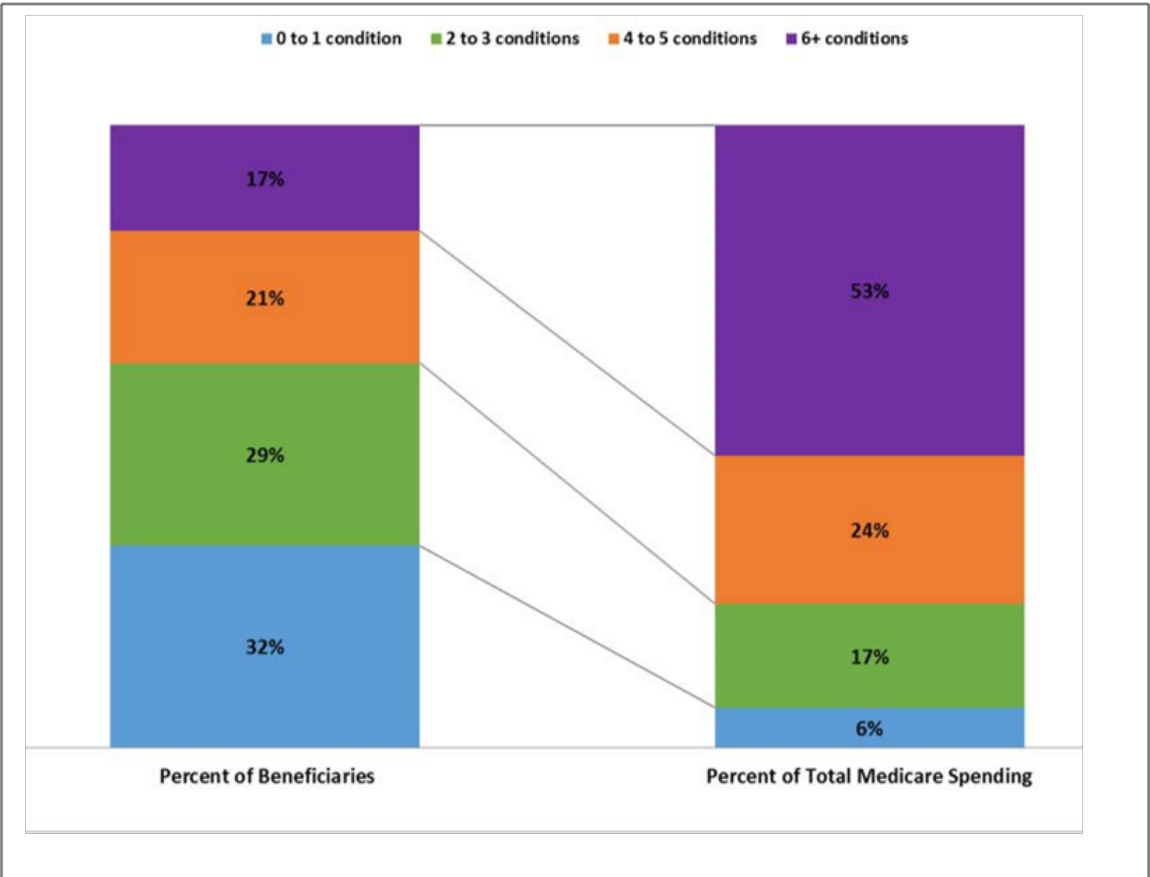
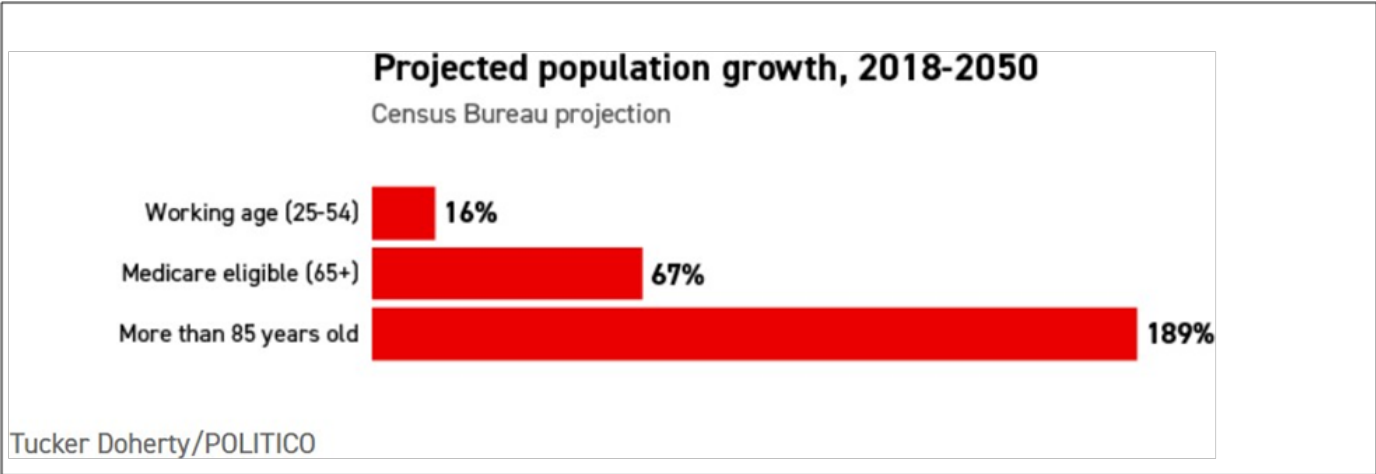


Source: Deloitte analysis using data from AHA annual survey and Medicare Cost Reports (via IBM Truven Health Analytics).

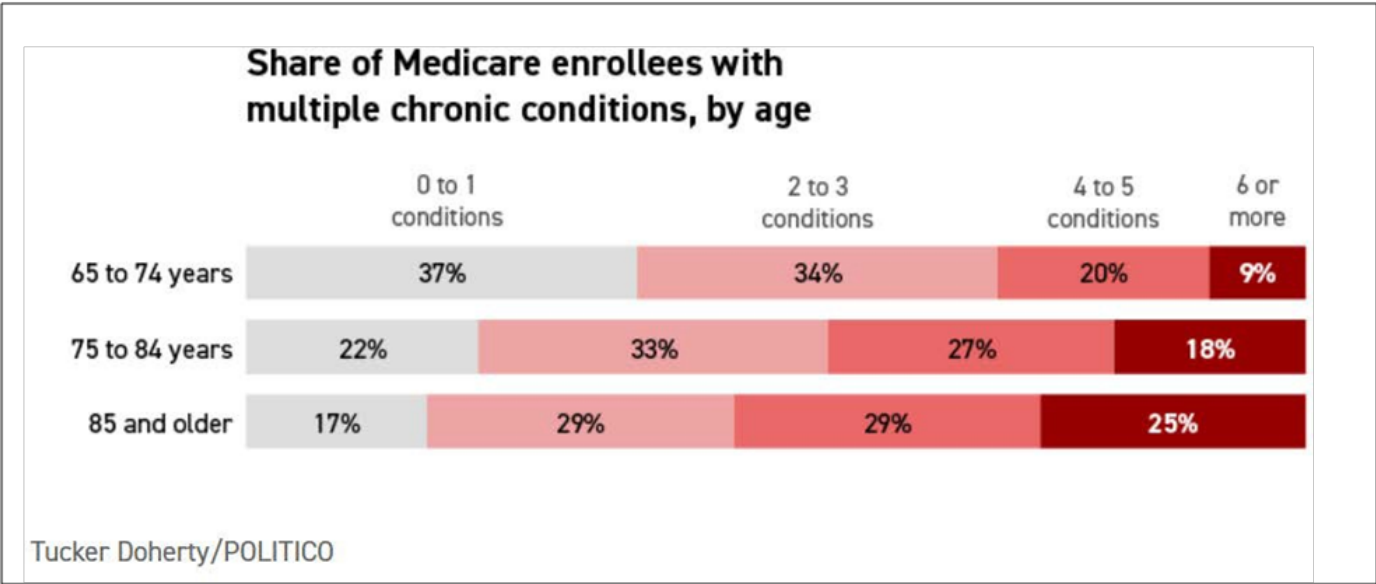
Trends: Health System's Historic "Profit Centers" Are Changing

(Demographics are Shifting and Aging Population Driving Health Care Utilization and Expense)

The U.S. Census Bureau projects that by 2034, there will be more people over 65 than under 18.



Source: CMS, Chronic Conditions Charts, 2017



- While beneficiaries with six or more chronic conditions constitute **only 14% of the Medicare population**, they account for over 40% of spending, and are **three-and-a-half times more expensive** to treat than the typical beneficiary.
- Almost 60% of Medicare beneficiaries have high blood pressure and one-third have ischemic heart disease, arthritis, or diabetes.

<https://www.politico.com/agenda/story/2018/09/12/medicare-baby-boomers-trust-fund-000694/>

The New York Times

‘Nursing Is in Crisis’: Staff Shortages Put Patients at Risk
“When hospitals are understaffed, people die,” one expert warned as the U.S. health systems reach a breaking point in the face of the Delta variant.

August 21, 2021

POLITICO

States gripped by Delta variant face case surge with fewer health workers

The alarming spread of new cases is draining the pool of available health workers in ways not seen since the pandemic’s winter peak.

August 23, 2021

MEDPAGE TODAY®

More Than a Nursing Shortage: A 'Skills Gap', Too

— Health systems grapple with a widening skills gap as seasoned nurses leave the field

September 14, 2021



Unimaginable Health Care Worker Burnout in the 4th COVID-19 Wave

August 25, 2021

FAST COMPANY

07-16-21

These industries are being impacted most by the Great Resignation

While every sector is being hit, some are suffering greater losses than others.

Healthcare, Retail/Hospitality and Manufacturing

THE WALL STREET JOURNAL.

Nursing Homes Keep Losing Workers

Employment has continued to fall as job losses in other sectors reverse, burnout and fear of COVID-19 keep staff away.

August 25, 2021

PHYSICIAN'S WEEKLY

COVID-19–Related ICU Workforce Shortage Projected to Push Hundreds of US Counties Into Crisis

August 31, 2021

healthleaders

Workforce shortages extend beyond nursing, including technical roles, social work, respiratory therapists, and non-professional jobs such as environmental services.

September 15, 2021

The current expansion of telehealth and remote health services will to some degree become permanent.



Hospital-at-Home

- *Involve multidisciplinary care teams that follow patients after emergency department (ED) or outpatient evaluation and include a robust bundle of services that may include: home visits, home infusion, and/or laboratory testing*



Primary Care-at-Home

- *Combines home-based care for medical needs with intensive longitudinal management and care coordination, and may also include arranging or delivering long-term services and supports*



Home-Based Technology for Care

- *Utilizes telecommunications technology as a tool to deliver health care to populations with limited access to care and may include cancer telegenetics, telepathology, remote chemotherapy supervision and/or symptom management*



Cancer Care-at-Home

- *Incorporate aspects of hospital-at-home, outpatient care, and inpatient care in a unified model for care of patients with cancer*

-Implications





- Digital infrastructure will need to be made adequate for a permanent expansion of telehealth services.
- Care delivery models will need to be revised to incorporate telehealth beyond urgent care visits.
- Comparative research on efficacy will be needed on how to integrate telehealth and in-person care.
- Practical experience in telehealth (e.g. rotations in tele-clinics) needs to be incorporated into undergraduate and graduate training.

Trends: New Entrants and More Traditional Players with New Business Strategies Are Seeking to Disrupt the Health Care Sector


A Wide Range of Innovators and are Attempting to Capture an Increasing “Share of Wallet” of the ~\$4 Trillion U.S. Healthcare Industry

Vertical Integrators



>500 “Health Hub” locations opening nationally





Big Tech










“Your first stop for healthcare: the best of both virtual and in-person care”



“Our biggest contribution to mankind will be about health” – Tim Cook, Apple CEO



Venture-Backed Disruptors



“On-demand, AI-powered digital and physical primary care”

Note: Examples cited above are illustrative, not exhaustive, list of rapidly emerging competitors.

Federal programs provided financial support to hospitals and other providers over the last 2 years*

- Provider Relief Fund
- American Rescue Plan (ARP) Rural Funds
- ARP State and Local Fiscal Recovery Funds
- Paycheck Protection Program (PPP)
- Increased Medicare payments for COVID-19 admissions
- Medicare Advance Payment Program
- Sequestration delay

Consider other sources of federal support to further goals of organization

- Congressional Directed Spending Program/Community Project Funding
- Bipartisan Safer Communities Act
- USDA Rural Development (Community facility direct loans and telehealth support)
- FEMA (COVID-19 Public Assistance Program)
- HRSA

*NOTE: Federal Public Health Emergency (PHE) is now expected to continue through the end of 2022

There are several State funding opportunities to support current operations and strategic planning. The FY23 enacted budget included significant capital and operational investments for health care providers.

Capital

\$1.6B Health Transformation Capital Program in FY23 Budget

- Additional \$450M for projects submitted under Statewide III
- \$750M for health care delivery transformation
- \$200M for emergency department modernization
- \$150M for technological and telehealth transformation
- \$50M for residential and community-based alternatives to nursing home care

Operational / Programmatic

- \$800M (FY23) to support financially distressed hospitals
- Vital Access Provider (VAP): FY23 budget increased funding available by \$100 million
- OMH program investment
- \$1B Healthcare Transformation Fund

Healthcare Workforce Investments

- Office of Strategic Workforce Development (\$350M)
- Healthcare Worker Bonus Payment (\$1.2B)

Existing Opportunities for State Funding / Support

- Statewide Transformation Program – Round III awards expected by end of the year
- DASNY Facility Restructuring Loan
- Vital Access Provider Assurance Program (VAPAP)

1115 Waiver Amendment

- New York is seeking \$13.52B over 5 years to change the way the State's Medicaid program “integrates and pays for social care and health care” and advance health equity for Medicaid enrollees through an array of linked initiatives.
- NYS expects approval in 2023.

FEMA Public Assistance Program: Overview and Eligibility

Pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), the President issued on March 13, 2020 a nationwide emergency declaration and major disaster declarations for the COVID-19 pandemic.

- **Background:** Under these declarations, state, local, tribal and territorial government entities and certain private non-profit (PNP) organizations (like hospitals) are eligible to apply for assistance under the FEMA Public Assistance (PA) Program.
- **Source of Funding:** The Disaster Relief Fund funds the federal share of the FEMA PA Program. For this current fiscal year, the agency has been granted authority to spend \$59B out of this federal account. To date, 45.3% (\$27B) of the total \$59B has been obligated.¹
- **Eligible Costs:** Include costs associated with actions taken before, during and following a disaster to save lives and protect public health and safety. Examples of emergency protective measures for COVID-19 pandemic purchased supplies (like PPE), facility disinfection, disease testing, and **certain labor costs**. [Streamlined Application](#) and [Coronavirus \(COVID-19\) Pandemic - Medical Care Eligible for Public Assistance](#).
- **Federal/State Cost Share:** Historically, federal cost share for reimbursement has been not less than 75% of eligible costs incurred. For COVID-19 incident this was increased from 75% to 100% for eligible costs incurred from beginning of PHE on January 20, 2020. Reimbursement for costs incurred from July 2, 2022 until end of incident period will be reduced to 90% federal cost share.

▪ **Process:**

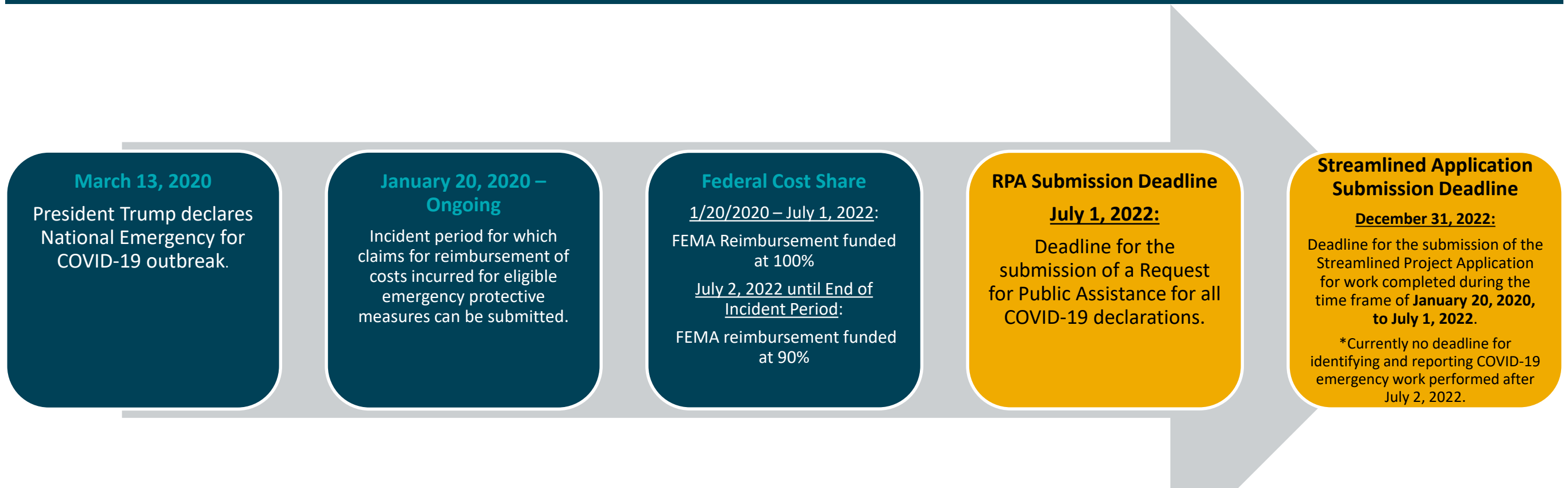


- **NYS Department of Homeland Security and Emergency Services (DHSES) COVID-19 FEMA [Applicant Briefing](#) – June 28, 2022 at 1 p.m.**

¹ https://www.usaspending.gov/federal_account/070-0702

FEMA Upcoming Deadlines and Opportunities

FEMA recently released a new policy [COVID-19 Public Assistance Programmatic Deadlines Policy - Final \(fema.gov\)](https://www.fema.gov), that (1) establishes FEMA PA programmatic deadlines across all COVID-19 emergency and major disaster declarations, and (2) provides information on the application of the 100% and 90% federal cost shares applicable to FEMA PA reimbursement for the COVID-19 emergency.



FEMA Public Assistance Program: Developments and Deadlines Health Care Providers Need to Know About - Manatt, Phelps & Phillips, LLP

See Appendix A for Programmatic Deadlines

Structural Shifts in Health Care Delivery are Accelerating and Require Providers to Transform Care Delivery Models



Price Transparency

Hospital pricing publicly available - Patient shopping for Value (Cost & Quality)



Value-based Payment

No longer being paid for volume



Physician Alignment w/ Venture Capital

Physicians are incented to reduce care in the health system



Site of Service Shift

Significant shift in demand at the service line & site of care levels – High end Surgery and recovery moving to outpatient



Virtual care

Digital transformation having an impact on primary care & emergency room visits



Workforce shortages

Workforce shortages are not short-term; likely to take years to address

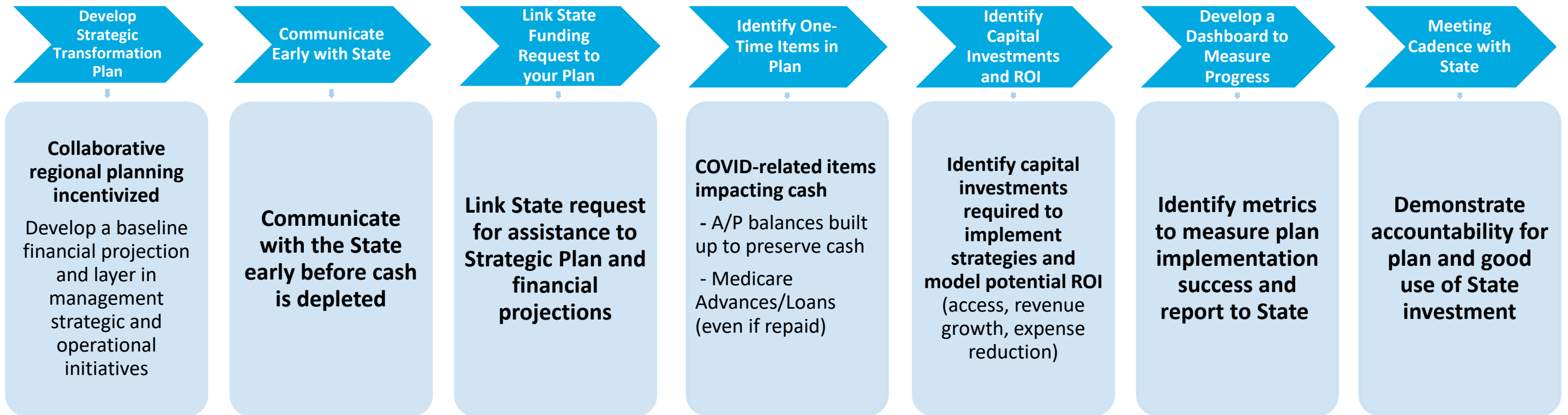


Health equity

Greater focus on Social Determinants of Health (SDOH) – Supports Greater DEI Investment

Source: "Health care industry trends for 2022," Health Care Advisory Board, available at: <https://mcolblog.com/kcblog/2022/4/11/catching-up-with-advisory-boards-ken-leonczyk-on-the-state-o.html>.

Develop a Strategic Plan and Financial Projection, Communicate Early, and Demonstrate Accountability



More State dollars are available than in prior years to assist providers with weathering this storm and implementing post-COVID transformation.

Present the State with a range of requests and match funding need with targeted funding tool.

VAPAP

- State dollar only
- Distressed providers with limited to no cash reserves;
- Funds operations to "keep the lights on"; Historically >15 DCOH
- Eligibility and funding expanded to nursing homes, ACOs, IPAs
- Requires detailed bi-weekly state template reporting and Transformation / Sustainability Plan

VAP

- State and Federal funded (SPA required)
- Temporary Medicaid rate adjustment (2-3 years)
- \$60 annual million state appropriation; \$120 million gross
- Hospitals, clinics, nursing homes, home care entities eligible
- Separate pools for CAHs, OMH facilities
- Closure, affiliation, merger or other restructuring
- Improve access, quality and reduce Medicaid expenditures

Directed Payment Template

- In Development; CMS template; replaced VBP QIP and requires annual approval
- Medicaid managed care payments only
- Recognizes structural rate issue with high governmental payor mix
- Enhanced rate add-on for inpatient and outpatient services
- Volume dependent

Health Facility Restructuring Pool Loan

- Low or no interest loan; flexible repayment terms
- DOH and DASNY jointly administer; \$19.5 million annual appropriation
- Broad purpose \$3-5 million typical loan size
- Requires collateral/security
- Bridge financing

\$800M SFY23 Additional Financially Distressed Hospital Funding

- Preferred use for "one-time" COVID related expenses
 - Grants for Medicare Advance Loans
 - Reduction of A/P or other debt

Statewide Health Facility Transformation Capital Grant Program

- \$1.6 B in SFY23
 - \$450 million for SW III applications submitted in February 22;
 - \$750 M for SW IV HC Transformation projects
 - \$25M carve out for community-based providers
 - \$25M for OMH, OASAS and OPWDD providers
 - \$50M nursing homes
 - \$150 million IT and telehealth
 - \$200 million emergency department modernization
 - \$50 million community-based alternatives to nursing home care

\$1B Healthcare Transformation Funds

- Added State funds in SFY23 Budget
- No distributions yet
- State Guidance forthcoming
- Request for transformative projects that improve access and reduce Medicaid expenditures

1115 Waiver

- \$13.52B over 5 years; Integrate Social Care and Health Care and advance Health Equity
- August 22 NYS target date CMS submission; January 2023 Implementation
- Incentivized regional planning, includes:
 - \$7B (52%) Advanced VBP Models
 - \$1.5B (11%) over 5 years Financially Distressed Providers
 - \$1.5B (11%) over 5 years for Workforce Capacity and Training
 - \$300M (2%) Digital and Telehealth

Transformation of CAH into Health and Living Center with modern ED, primary and specialty physician offices, lab, diagnostics operated as campus of larger health system

Retraining of workforce for new positions associated with service line restructuring

Transition of independent hospital with aged physical plant at risk of closure into a newly constructed micro hospital and surgery center co-owned by larger health system



Acquisition and integration of public hospital at risk of closure into private non-profit health system



Merger affiliation of two nursing homes to strengthen, preserve and create specialty services



Academic medical center and rural community hospital joint clinical services integration





Questions

Appendix

Appendix A – FEMA Programmatic Deadlines

Cost Share		Work Conducted
100% Federal Funding	Costs for work performed and items used or distributed for use through 11:59 p.m. on July 1, 2022	
90% Federal Funding	Costs for work performed and items used or distributed for use on or after July 2, 2022	
Type	Deadline	Time Extensions
Request for Public Assistance	July 1, 2022	<ul style="list-style-type: none"> Regional Administrator up to 90 days Assistant Administrator of Recovery concurrence beyond 90 days
Work Completion Deadline for work performed through July 1, 2022	July 1, 2022	N/A
Work Completion Deadline for work performed on or after July 2, 2022	Not yet established	N/A
Project Application Submission / Damage Identification Deadline for work performed through 11:59 p.m. on July 1, 2022	December 31, 2022	<ul style="list-style-type: none"> Regional Administrator up to 90 days Assistant Administrator of Recovery concurrence beyond 90 days
Project Application Submission / Damage Identification Deadline for all work performed on or after July 2, 2022	Not yet established	N/A
Closeout Deadline for large projects obligated on or after the work completion deadline	180 days from obligation date	Regional Administrator
Closeout Deadline for large projects obligated prior to the work completion deadline	180 days from work completion deadline	Regional Administrator
Closeout Deadline for small projects	180 days from last Small Project work completion deadline or date of obligation, whichever is later	Regional Administrator
Management Costs	180 days after work completion date or the work completion deadline of last non-management cost project, whichever is sooner	<ul style="list-style-type: none"> Regional Administrator up to two years from the end of the incident period Assistant Administrator of Recovery concurrence beyond two years from the end of the incident period



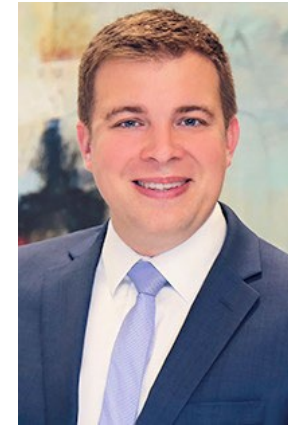
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About

Meghan is a partner with Manatt Health in the firm’s Albany, New York Office. Meghan closely monitors evolving state and federal policy impacting healthcare providers both in New York and nationally, and interfaces routinely with key leadership at the New York State Department of Health, Governor’s office, and Legislature. Meghan’s practice primarily focuses on representing health and behavioral health providers, financially distressed safety net hospitals, nursing homes, federally qualified health centers, and home care providers. She helps clients navigate the evolving healthcare landscape, including the COVID-19 pandemic response, and develop and achieve strategic goals. Meghan has earned a strong reputation in the healthcare community as a problem solver and has long-standing relationships with government agencies.

About

Tracy Raleigh is an accomplished health care leader with 30 years of executive experience in both the public and private sectors. She advises providers and other health care organizations on strategic planning, performance improvement, capital financing and financial restructuring, with a focus on distressed health care provider restructuring and turnaround; strategic planning for inpatient, ambulatory, post-acute, and physician and community organizations; capital financing and access for health care providers; business planning and financial feasibility; health care governance models; alternative payment models, including value-based payment; and population health initiatives.

About

Michael Paulsen is counsel with Manatt Health in the firm’s Albany office.

As an experienced attorney and government relations professional with a focus on health care, Michael provides legal, regulatory and legislative counsel to health insurers, not-for-profit corporations and health care providers, including nursing homes, continuing care retirement communities (CCRCs), clinics, home care providers and assisted living facilities.