Nursing Home Weekly: Recap of LeadingAge Updates
July 28, 2022

COVID Calls Next Week. What's the White House doing at this stage of the pandemic? What's coming in the Fall? Join us on **Monday, August 1 at 3:30 PM ET,** when Dr. Cyrus Shahpar of the White House COVID-19 Task Force tells us what to expect this week and through the coming weeks and months. On **Wednesday, August 3 at 3:30 PM ET** Dr. Ashley Ritter from Dear Pandemic, "a website where bona fide nerdy girls post real info on COVID-19" will be with us to talk all things COVID. (Needless to say, the "nerdy girls" part is not serious; the information is for all.) Posts from experts, some well-known, cover new questions and bring facts to the discussion. If you haven't registered for LeadingAge Update Calls, you can do so here. You can also find previous call recordings here. Note that to access recordings of the calls you need a LeadingAge password. Any staff member of any LeadingAge member organization can set up a password to access previous calls and other "members only" content.

Nursing Home RoPs guidance clarifications. During the monthly associations' "small call" with CMS, CMS answered questions related to a few sections of the new RoPs guidance.

- F919 states that the resident call system should be accessible to residents lying on the floor. CMS clarified that this refers specifically to the call system in the toilet and shower/bathing facilities.
- New F895 relates to the requirement for a Compliance and Ethics program. Surveyors will begin surveying this requirement on October 24, 2022 and will generally be looking for a functioning compliance and ethics program at that time; however, if a related complaint occurred between RoPs 3 implementation (November 2019) and October 24 and investigation reveals that the nursing home did not have a compliance and ethics program at the time of the incident/complaint, the nursing home could be cited for past noncompliance.

How will LeadingAge support members in complying with updated guidance? On June 29, CMS released updated guidance on the RoPs Phase 2 and Phase 3 and Arbitration. In this table LeadingAge has outlined each content area and topic with the product(s) that will be produced to help nursing home members become compliant with the regulations. Timelines are estimated for completion; they are subject to change. The resource or tool will be a member only benefit and will reside on the LeadingAge website or the Learning Hub (depending on the product). If there are any questions, please contact Janine (Jfinck-boyle@leadingage.org).

CMS Releases RFI on Medicare Advantage. CMS announced July 28 that it is seeking input from a broad group of stakeholders including providers on "how care innovations are changing outcomes and costs and how Medicare Advantage is working for enrollees," according to CMS Deputy Administrator and Director of the Center for Medicare Dr. Meena Seshamani. LeadingAge has developed numerous suggestions to date based upon members' experiences and state staff input. We have been sharing

these ideas with Congress and are currently scheduling a meeting on this exact topic with Dr. Seshamani. We will review and summarize the [Request for Information](#) in the coming days for members and state staff. Comments will be due around August 30.

Improving Medicaid Determinations During and Beyond the PHE Unwinding. Challenges Medicaid beneficiaries face with redeterminations have been an issue long before the pandemic and are heightened with the eventual end of the Public Health Emergency. Advocates are again raising practical solutions for states to implement in removing administrative barriers so that beneficiaries, including older adults, do not experience gaps in their Medicaid coverage. Read the LeadingAge article on these issues [here](#).

TNA-to-CNA process. LeadingAge continues to push CMS for more information on how to handle transitioning of TNAs to CNAs in states with significant backlog. CMS states that they are thoroughly reviewing the issue and intend to release detailed information "soon" but stress in the meantime that TNAs / nursing homes should continue attempts to enroll in NATCEPs and sit for exams and maintain documentation of such attempts and the outcomes.

Enhanced Barrier Precautions. CDC recently released updated guidance on Enhanced Barrier Precautions in Nursing Homes. CDC's Lt. Cmdr. Dr. Kara Jacobs Slifka joined the Nursing Home Network on July 26 to review the updated guidance and answer member questions. Dr. Jacobs Slifka emphasized that this guidance was first released in 2019 and is intended to allow for a less restrictive experience than the alternative of contact precautions. The guidance is meant for high-contact care activities in which the resident and healthcare personnel are in close contact for an extended period of time. When asked on the associations "small call" with CMS how surveyors will be enforcing this new guidance, CMS reiterated that CDC recommendations are not requirements, though nursing homes may implement the recommendations as nationally accepted standards. While the EBP guidance is referenced in the new CMS guidance on F880, CMS has not instructed state survey agencies to survey on this guidance specifically.

Advancing Telehealth Beyond COVID-19 Act of 2022 passes the House. Late on July 27, by a voice vote of 416-12, the House passed the Advancing Telehealth Beyond COVID-19 Act of 2022. This legislation would ensure that Medicare beneficiaries continue to have access to telehealth by extending key Medicare telehealth flexibilities, enacted during the public health emergency, until at least December 31, 2024. LeadingAge advocated for this 2-year extension. This legislation is very similar to the 151-day telehealth extension legislation from the Consolidated Appropriations Act (CAA) 2022 that was passed earlier this year – it generally just extends deadlines on existing provisions. However, the bill does not include a provision from the Consolidated Appropriations Act that would extend pre-deductible coverage of telehealth services for individuals with High Deductible Health Plans – Health Savings Accounts (HDHP-HSA) plans. While this bill passed the House, we do not anticipate it moving in the Senate in the near future given its packed legislative calendar.

Senate Appropriations Committee Releases Spending Bills. On July 28, the Senate Appropriations Committee released their 12 spending bills. These were not done in coordination with the House so there is a lot more work to be done to fund the government for FY 2023 and we anticipate that there will be a continuing resolution at the end of September to facilitate continued work on FY2023 appropriations.

      -Transportation/HUD: The FY2023 Senate THUD bill funds the overall Section 202 account at the same level as FY 2022 with a greater emphasis on expanding the number of Service coordinators

and increasing contract rents to ensure successful Rental Assistance Demonstration conversions. An article with more details will be coming tomorrow.

-Labor HHS: An article analyzing the package will be available in the coming days. Some highlights include:

- The Committee provides $47,245,000 for the Geriatric Workforce Enhancement Program, an increase of $2,000,000. This program supports training to integrate geriatrics into primary care delivery and develops academic primary care community-based partnerships to address gaps in healthcare for older adults. Mental and Behavioral Health Programs.
- Workforce funding: $2.959 billion for Workforce Innovation and Opportunity Act State Grants, an increase of $80 million over fiscal year 2022; $303 million for Registered Apprenticeships, an increase of $65 million; and $1.774 billion for Job Corps, an increase of $25 million.
- The Committee also made a recommendation around supporting the Direct Support Workforce as a career which includes $10,000,000 for competitive grants, to be awarded in coordination with the Administration for Community Living, for the delivery of innovative strategies to significantly expand, stabilize, and retain direct support workers who provide home and community based services to people with disabilities and older adults. Grants should be awarded to partnerships of non-governmental entities and State or local governments to develop and implement strategies to recruit, educate, train, retain, and promote career advancement of direct support workers. Strategies for improving the direct support workforce must include a goal to significantly reduce turnover and improve retention of such workers, and to reduce barriers to entry for a diverse and high-quality direct support workforce, including strategies for improving wages and benefits, professional development and other worker supportive services, and advancement opportunities.
- Hospice Report Language: LeadingAge also worked to include two provisions in the draft report language on hospice bereavement and grief care. One item asks for the Agency for Healthcare Research and Quality to develop consensus standards on what constitutes high quality bereavement and grief care. The other asks a number of agencies within HHS, led by the Assistant Secretary for Planning and Evaluation, to work to scope the level of grief and bereavement services that are needed for both youth and adults given a variety of pandemic related factors.
- Nursing Home Report Language: Among the key factors to controlling the spread of COVID–19 in the post-acute and long-term care setting is the engagement of facility medical directors. The Committee expressed concern that this position remains underutilized and invisible to most patients, families, and others in health care. It, therefore, suggested a clinician list may improve the ability of public health agencies to address this is and requested that CMS and the HHS Secretary identify better ways for public health agencies to contact nursing facility medical directors.
- The Committee recommended $40,000,000, $15,342,000 above the fiscal year 2022 level, for grants to States for the Long-term Care Ombudsman program and the Prevention of Elder Abuse program.
- Long-Term Care Facility Metrics: In 2021, the HHS OIG found that the current CMS measures related to the use of antipsychotics are insufficient. The Committee directed CMS to review and consider retiring or improving the validity of the ten-year-old

measures, and it encouraged CMS to design new measures to reflect inappropriate use of antipsychotics in skilled nursing facilities.

Bipartisan Bill to improve MA plan Prior Authorizations Unanimously Passes House W&M. The House Ways & Means Committee marked up HR 8487, the Timely Access to Care Act, in unusually rapid fashion (roughly 45 minutes), on Wednesday, July 27 with no committee member speaking against the legislation. Chairman Neal offered a substitute amendment and chief author Congresswoman Suzan Delbene (D-WA) made a motion to move the bill to the House floor. This motion passed unanimously on a voice vote following considerable praise from both sides of the aisle. LeadingAge has publicly supported this bipartisan legislation which seeks to make improvements to the prior authorization processes used by Medicare Advantage and Special Needs Plans. We've heard many stories from members about the challenges, amount of time and administrative burden it takes to obtain MA/SNP plan approvals for post-acute care services. If enacted, the bill will require plans to utilize an electronic prior authorization system and conduct real-time decision making on prior authorizations with limited exceptions. It sets specific timeframes by which these determinations must be made – 24 hours for urgently needed services and up to 7 days for all other services. It also will requires data to be collected to ensure more transparency from plans regarding the types of services and items for which they require prior authorization, how many prior authorizations requests they receive annually as well as how many are approved vs. denied, and the number of denials that were appealed. HHS, MedPAC and GAO are all instructed to conduct related evaluations following the implementation of the bill and report back to Congress.

Understanding Medicaid Barriers: This brief describes the experiences of 132 Medicaid recipients from 16 states and territories and identifies the primary barriers they are facing alongside policy solutions to eliminate them.

HHS Announces Proposed Rule to Strengthen Non-Discrimination in Health Care: The proposed rule, announced on July 25, implements Section 1557 of the Affordable Care Act (ACA)(Section 1557) that prohibits discrimination on the basis of race, color, national origin, sex, age, and disability in certain health programs and activities. This proposed rule restores and strengthens civil rights protections for patients and consumers in certain federally funded health programs and HHS programs after the 2020 version of the rule limited its scope and power to cover fewer programs and services. "Strengthening Section 1557 supports our ongoing efforts to provide high-quality, affordable health care and to drive health equity for all people served by our programs," said Centers for Medicare & Medicaid Services (CMS) Administrator Chiquita Brooks-LaSure. A fact sheet on the Notice of Proposed Rule Making (NPRM) is available in English and 16 languages.

Updated Medicare Advantage and SNP 101 PowerPoint: The LeadingAge Center for Managed Care Solutions and Innovations had an updated version of its MA and SNP 101 Powerpoint. It includes some information on the latest trends and developments regarding Medicare managed care and also explains what MA and SNPs are from the provider perspective, the plan view and the advantages for consumers. This can be a useful tool for members in educating themselves, their staff and their Board of Directors regarding the significance of this payer in the current market. Members can download this updated information and use only the slides they need. The slide deck can be found on the Center for Managed Care Solutions and Innovations website under Managed Care and Payment Model Basics or by going to this link. Stay tuned for more updates to the Center for Managed Care materials.

True Cost of Aging Index. This KHN article shares that the Elder Index, developed by researchers at the Gerontology Institute at the University of Massachusetts-Boston, shows that more than half of older women living alone, 54%, are either poor according to federal poverty standards or with incomes too low to pay for essential expenses. For single men, the share is lower but still surprising — 45%.

Aging Services Workforce Now Campaign. The workforce crisis in our sector requires immediate action. LeadingAge's ongoing federal government advocacy is culminating in this new coordinated advocacy campaign— join us to take action for the aging services workforce–now! Check out this week's Aging Services Workforce Now Campaign Update.

"How To" Tools to Positively Shift Perceptions of Aging Services. Opening Doors to Aging Services is a national-local initiative to introduce the aging services sector to Americans–and to shift perceptions positively. All the resources you need are at OpeningDoors.org: research, communications strategies, tested messages, and other assets to use with your existing communications! Watch this short video for an overview and check out tips on adopting these strategies in these LeadingAge Learning Hub QuickCasts and workshops to help tell an authentic story of aging services and move perceptions positively.

Register Today for the 2022 LeadingAge Annual Meeting + EXPO! Ready to explore new strategies for building momentum in Denver? Join your peers and experts across aging services for conversations that fuel progress at the LeadingAge Annual Meeting + EXPO. Registration and hotel blocks are now open so reserve your seat and join us in Denver, October 16-19.

Don't Miss Your Chance to Apply: 2023 Leadership Academy. The nonprofit aging services sector needs diverse, empowered leaders and the LeadingAge Larry Minnix Leadership Academy is designed to develop leadership capacities and core competencies. Explore your natural talents and authentic leadership style,– or recommend the opportunity to a skilled colleague. The application **deadline is Monday, August 1, so** apply now!