



Nursing Home Weekly: Recap of LeadingAge Updates

November 12, 2021

LeadingAge Coronavirus Update Calls next week. Interested in hearing how LeadingAge members do advocacy on Capitol Hill and with the executive branch? Maybe you're on the line to submit your first report on how you used your Provider Relief funds and could use a little support? What's the very latest science and medical advice on vaccines and boosters? Join the LeadingAge Update calls next week as we cover all these topics as well as the most recent policy updates available. On **Monday, November 15 at 3:30 PM ET**, **Erica Thrash-Sall and Roger Myers** from **Presbyterian Villages Michigan** will discuss how they are working with their local congressional office to help move the aging services agenda. They'll also tell us about their experience hosting US Department of Housing and Urban Development Secretary Marcia Fudge at one of their senior housing communities. On **Wednesday, November 17 at 3:30 PM ET**, we'll hear from **Dr. David Fairchild, Associate Chief Medical Officer of CVS Health** who will talk about the latest updates on COVID-19 boosters and answer your questions related to vaccinations for residents, staff and children. If you haven't registered for LeadingAge Update Calls, [you can do so here](#).

LeadingAge member briefing on the vaccine mandate rules. Thursday, Policy staff presented an overview for LeadingAge members of the [CMS Interim Final Omnibus COVID-19 Health Care Staff Vaccination rule](#) and the [OSHA Emergency Temporary Standard on Vaccination and Testing](#). [Here](#) is a link to the slides from the briefing. The recording will be available starting a noon on Friday in the [LeadingAge Learning Hub](#).

COVID-19 Vaccine Policy template: As we shared, we have partnered with Pathway Health to offer a COVID-19 Vaccine Policy template that addresses several of the processes required by the CMS rule. This template is a members-only resource, which means one must use a LeadingAge login in order to access it. The template can be accessed with login [here](#).

Ten States Sue Over the CMS Vaccine Interim Final Rule. Ten states filed a [lawsuit](#) in U.S. District Court in Missouri challenging the CMS Interim Final Rule issued last week. The states that joined the litigation were Missouri, Nebraska, Arkansas, Kansas, Iowa, Wyoming, Alaska, South Dakota, North Dakota, and New Hampshire. The complaint highlighted the healthcare workforce crisis, alleged that the CMS rule is an intrusion on states' police powers, and that CMS failed to follow proper notice and comment requirements. There is no timeframe yet on when the district court expects to rule on the case. We will continue to follow and keep you posted on any developments.

LeadingAge and LTC Providers Request State Department Prioritize Immigrant Visas for Nurses. LeadingAge co-signed a letter, along with 11 long-term care and post-acute provider organizations, to request the U.S. Department of State (DOS) take specific actions to prioritize immigrant visas for nurses who have approved petitions. The letter requests the DOS address issues with the U. S. Citizenship and Immigration Services, and stalled visas within the DOS. Additionally, DOS should implement several recommended solutions to expedite the interviews for these qualified international nurses.

The letter is available [here](#), and was co-signed by: LeadingAge, AHCA, Agentum, American Senior Housing Association, Association of Jewish Aging Services, National Center for Assisted Living, National Association of State Veterans Homes, Pediatric Complex Care Association, The Jewish Federations North America, The Society for Post-Acute and Long Term Care Medicine, American Network of Community Options and Resources and the National Association for the Support of Long Term Care.

Letter to House and Senate leaders. Wednesday, Katie Sloan sent [a letter](#) to Nancy Pelosi, Speaker of the House, and Charles Schumer, Majority Leader of the Senate, urging that they strengthen the Build Back Better Act so that older adults' needs are addressed to the greatest extent possible. The letter reviews LeadingAge's request that the Section 202 funding from \$500 million to \$1 billion and asks leadership to preserve the HCBS and workforce related provisions of the current draft. In addition, the letter asks for adequate funding and resources to implement two key nursing home provisions in the current House bill.

- The House bill includes a requirement that HHS conduct a "nurse staffing requirements" study to determine whether there is evidence to support a link between staffing ratios and quality (section 30720). Currently the provision in Build Back Better also directs HHS to implement the findings of the study. In today's letter to leadership, we say clearly that Congress must include provisions to adequately fund any new staff costs. In addition, we ask for assurances that nursing homes that demonstrate they are unable to meet any minimum staffing ratios will not be penalized.
- We ask that similar funding increases and protections be added to the House bill provision requiring registered nurse coverage on site 24/7 (section 132000).

CMS Pocket Guides for assessment and coding. The Centers for Medicare & Medicaid Services (CMS) is offering **Pocket Guides** to assist providers in assessing and coding self-care and mobility, falls, and pressure ulcers/injuries. The pocket guides provide a quick reference for important terms and definitions that promote coding accuracy. These training assets are intended for providers in Home Health Agencies (HHAs), and Skilled Nursing Facilities (SNFs). The pocket guides are approximately 2 x 3.5 inches in size and are designed to be worn behind a provider identification badge. The pocket guides cover the following topics:

- Pocket Guide #1: Coding for Self-Care and Mobility Items.
- Pocket Guide #2: Definitions for Coding Section J Fall Items.
- Pocket Guide #3: Pressure Ulcers/Injuries Stages and Definitions.

The pocket guides are available under the **Downloads section** of the Quality Reporting Program (QRP) Training page for each setting:

- [Home Health QRP Training](#)
- [Skilled Nursing Facility QRP Training](#)

If you have questions about accessing the resources or feedback regarding the trainings, please email the PAC Training Mailbox (PACTraining@Econometricalnc.com). Content-related questions should be submitted to the setting specific help desk:

- HomeHealthQualityQuestions@cms.hhs.gov
- SNFQualityQuestions@cms.hhs.gov

Provider Relief Updates: HRSA staff will join the LeadingAge Member Coronavirus call on Monday, November 15 to share information and answer questions about the Provider Relief Fund Reporting Process in advance of the November 30 deadline for providers to submit their first report.

- **Timing of Phase 4/ARP Rural Payments:** HRSA also recently updated the PRF Future Payments website indicating that they will share more information soon about the timing

and distribution of the Phase 4/ARP Rural payments. When they announced the Phase 4/ARP Rural application, they indicated they were aiming to distribute the ARP Rural payments in mid to late November 2021, and the Phase 4 payments by the end of 2021 likely mid to late December. In conversations with their staff, they are striving to maintain these timelines even with the more than 110,000 applications they received.

- **If Members Had Issues Applying for Phase 4/ARP Rural:** HRSA also indicated that providers who encountered technical issues when applying for Phase 4 and/or ARP Rural payments can submit their questions and issues to HRSA at ProviderReliefContact@hrsa.gov. While HRSA has made no exception to the application deadline for providers in these circumstances so far, we believe this inquiry is helping them size the problem and could result in an opportunity for these providers to submit an application. Members are asked to also CC Nicole (nfallon@leadingage.org) at LeadingAge on these communications to HRSA so we can determine how many members had these issues and advocate on their behalf for a chance to complete/submit an application.
- **Phase 3 Reconsideration Deadline is Friday:** Reminder that providers who wish to request reconsideration of their Phase 3 payments believing they were incorrectly calculated based upon the [Phase 3 methodology](#) published by HRSA have until Nov 12 at 11:59 p.m. ET to submit their reconsideration request. For more information on this Phase 3 reconsideration process, members can access information [here](#).

Letter to CMS Administrator Seeking Clarification on CMS IFR. Katie Sloan sent a [letter](#) to CMS Administrator Chiquita Brooks-LaSure seeking answers to members' questions concerning the Interim Final Rule on vaccinations. Among the questions are whether the rule applies to entire entities or just the CMS certified parts; the definition of "additional precautions" for unvaccinated staff; timing of contingency plans; requirements for new hires after January 4; more clarify on medical exemptions; how to handle vaccinating staff under the age of 18 whose parents or guardians won't consent; types of contractors/services that might be eligible for an exception; and clarity on applicability to Medicaid home care services.

Resources on Vaccine Mandates. [Here](#) is an update with vaccine resources in one place regarding the CMS Interim Final Rule, the OSHA Emergency Temporary Standard (ETS), Federal Contractor rules, and information from the Health Action Alliance including templates.

New manual on serving older adults with serious mental illness. The HHS Substance Abuse and Mental Health Services Administration (SAMHSA) released a clinical manual, Psychosocial Interventions for Older Adults with Serious Mental Illness. The manual provides considerations and strategies for interdisciplinary teams, peer specialists, clinicians, RNs, behavioral health organizations, and policy makers to understand, select, and implement evidence based interventions that support older adults with serious mental illness. Download the new manual [here](#).

Nursing Home Provisions in the Build Back Better Act. There are several provisions affecting nursing homes in Build Back Better. All except the RN 24/7 requirement are also found in the Nursing Home Improvement and Accountability Act of 2021 (S. 2694/H.R. 5169):

- Sec. 2041 – Nursing Home Worker Training Grants: \$500,000,000+ FY 2023-2025; applies to all LTC workers (nursing home, home health, hospice, etc.); mandatory uses include wage subsidies, student loan repayment and tuition assistance; child care; transportation; discretionary uses include reserve fund for financial assistance in

emergency situations; help providers provide not less than 2 weeks of paid leave; other support services necessary to allow for successful recruitment and retention of workers.

- Sec. 30717 – Funding to Improve the Accuracy and Reliability of Certain SNF Data: Directs CMS to develop a process to validate resident assessment data and direct care staffing information; and then beginning FY 2026, adds those two provisions to data subject to 2% penalty if reported inaccurately (for FY 2026-2031).
 - Sec. 30718 – Ensuring Accurate Information on Cost Reports – directs CMS to use a representative sample of SNFs to audit cost reports. No penalties or other indication of how this data will be used.
 - Sec. 30719 – Survey Improvements -- \$325M over 10 years to review surveys to determine extent to which the enforcement process results in increased compliance; timeliness and thoroughness of survey agency responses to complaints, verification of plans of correction, etc.; accuracy of scope and severity of deficiencies including infection control, life safety and emergency prep; consistency of facility reporting of substantiated complaints to law enforcement; ability of the state agency to hire, train and retain surveyors. CMS directed to provide training, tools, technical assistance and financial support for the purpose of improving surveyors.
 - Sec. 30720 – Nurse Staffing Requirements – CMS has 3 years to conduct a study and submit to Congress on the appropriateness of establishing a minimum staff to resident ratios for nursing staff, including recommendations of appropriate minimum ratios of registered nurses (and if practicable, LPNs and CNAs); CMS has one year to then issue regulations implementing the minimum ratios (if any). Rural facilities may request exemption if located in an area that does not have sufficient ability to meet the needs of individuals (presumably this means doesn't have enough staff in the geographic area).
- Sec. 132000 – Registered Professional Nurses – this is the provision added at the last minute, mandating that by FY 2024, an RN must be on duty 24/7 in both SNF and NF. The current waiver provision is in effect (requires the facility to show that it has been unable, despite diligent efforts, to recruit appropriate personnel).

HHS Monoclonal Antibody Distributions. [Here](#) is this week's allocation of monoclonal antibodies by state from the Federal COVID Response Team.

2022 Annual Meeting Call for Sessions. Submit your proposals now for next year's Annual Meeting + EXPO, October 16-19, 2022 in Denver, CO. Learn more, get answers to common questions, and complete your submission [here](#).

Transgender Awareness Week: November 13-19, 2021. Members of the trans community face striking disparities in their access to health care, employment, and housing opportunities. November 13-19 is Transgender Awareness Week, which is a perfect opportunity to connect with content on the LeadingAge Learning Hub that explains how your community can be [inclusive to trans employees](#) and provide [great care to trans older adults](#).

LeadingAge LTSS Center @UMass Boston Resource Library. Have you checked out the [LTSS Center's Resource Library](#)? Find an array of resources relating to research in the areas of workforce, housing, nursing homes, financing, aging and health, and consumer engagement.