



Home Health and Hospice Weekly: Recap of LeadingAge Updates

February 11, 2022

LeadingAge Update Calls next week. Surges and ups and downs with COVID through a medical director's eyes. And how are we doing? What's been the impact of the pandemic on our mental health and what we can we do about it? All calls are at 3:30 PM ET. On Monday, February 14, LeadingAge member and clinical advisory group member, **Dr. Noah Marco**, Medical Director of the LA Jewish Home will talk about his community's efforts to keep COVID-19 out, dealing with surges, the impact of isolation on residents, and his organization's successful efforts to increase staff and resident booster rates. Mental health of residents and staff is top of mind for LeadingAge members. **On Wednesday, February 16,** we will welcome Johns Hopkins professor **Melissa deCardi Hladek** to talk about her recent research on how we are coping with COVID-19 and what we can do to help manage stress during these trying times. If you haven't registered for LeadingAge Update Calls, [you can do so here](#).

Louisiana Federal Court Denies Attempt to Amend Complaint Against CMS Vaccine Mandate (for now). Last week 16 states filed a motion to [amend their complaint](#) in their legal challenge against the CMS IFR with the vaccine mandate. The states alleged that circumstances have changed dramatically because the Delta variant has largely disappeared and has been replaced by the Omicron variant, which is "largely undeterred by the vaccines." They also highlighted the crisis in the healthcare labor market, changes in guidance from the CDC allowing COVID positive employees to return to work, and the CMS requirement for state surveyors to get vaccinated as justifications for allowing the filing of the amended complaint.

The judge in the Western District of Louisiana issued an "indicative ruling" noting that the Fifth Circuit Court of Appeals currently has jurisdiction over the matter that was previously filed so it cannot grant the motion to amend the complaint. However, if the Fifth Circuit ever remands the case back to the district court, the court would grant the motion to amend the complaint, but only with regards to the Surveyor Vaccine Mandate and its alleged violation of the Anti-Commandeering Doctrine.

[Here](#) is a copy of the decision. While we don't expect the Fifth Circuit Court of Appeals to rule on the appeal soon or for the case to be remanded back to the Louisiana district court, we will continue to monitor.

HHCAHPS Survey Deadline for Exemption. The HHCAHPS team issued a reminder to all Medicare-certified home health agencies (HHAs) that the deadline for submitting an exemption from participating in the HHCAHPS Survey for the CY 2023 is 11:59 PM Eastern Time Thursday, March 31, 2022. Medicare-certified HHAs that served 59 or fewer unduplicated patients between April 1, 2020 and March 31, 2021

who met survey eligibility criteria can request a Participate Exemption Request for the CY 2023 APU. HHAs can access the online PER form on [HHCAHPS website](#).

Updated Hospice Quality Reporting (QRP) Claims-Based Measures Q&A. CMS released an [updated Q&A document](#) regarding two new claims-based measures in the Hospice QRP: Hospice Visits in the Last Days of Life (HVLDL) and Hospice Care Index (HCI). The update includes additional information on calculating and reporting claims-based measures based on additional questions from the hospice community.

The Dignity Act Proposes New Comprehensive Immigration Reform. Rep. Maria Salazar (R-FL) and 35 Republican members of Congress, unveiled comprehensive legislation to address America's immigration crisis. The proposal, "The Dignity Act," (section by section summary [here](#)) offers solutions to authorize a new border security enforcement system, creates a new pathway to citizenship for undocumented immigrants (Dreamers, TPS and DACA recipients) living in the U.S. illegally. The legislation would allow undocumented immigrants in the U.S. to work in the U.S. at a cost of \$1,000 annually for up to 10 years – as part of the earned pathway to legal status. The money raised would fund workforce training and apprenticeships to help U.S. citizens looking for work or transitioning to different careers.

To help ensure small and seasonal businesses can fulfill their labor needs, the bill addresses the H2-B Temporary Worker- nonagricultural workers visa program. It amends the duration of stay under the program, which is currently allows foreign workers up to one to three years, in the case of a one-time event. The bill would exempt returning workers from any one of the three previous fiscal years from counting against the annual numeric limit cap on the number of visas that are issued.

The bill also creates a new year-round H2-A temporary agricultural Guest Worker program. It removes the "seasonal" requirements on the H2-A program, expanding it to year-round labor and ensuring there are no visa caps on any agricultural industry. It remains unclear what path exists to pass this legislation, particularly under a Democrat-controlled Congress this year.

Update: Vaccine Mandates by State. We have updated our [article](#) to reflect that Illinois will begin to require healthcare workers to get booster shots, with the first deadline set for March 15 2022. Now, there are seven states who have this requirement for healthcare workers: California, Connecticut, Illinois, Massachusetts, New Jersey, New Mexico, and New York.

House Passes CR Through March 11. The House passed the third Continuing Resolution (CR) of fiscal year 2022. This latest CR must now be passed by the Senate and signed into law by February 18, when the current CR expires. The CR funds government programs absent regular FY22 appropriations bills but at FY21 levels. According to reports, House and Senate leadership are close to reaching a deal on overall spending for defense and nondefense programs, paving the way for the 12 individual spending bills to be completed by a new March 11 deadline. "We are very close to an agreement and I am eager to move this process forward. I have every expectation that we can finalize a framework in short order and then work together to fill in the details and enact an omnibus," House Committee on Appropriations Chair Rosa DeLauro (D-CT) said in a statement upon the CR's passage.

Congressional Research Service report on Provider Relief Fund. The Congressional Research Service released an update to its report, "[The Provider Relief Fund: Frequently Asked Questions](#)." In addition to clear, simple background information on PRF authorities and allocations to date, the updated report includes current reporting requirements and information about Phase 4 funds.

Senate HELP Subcommittee Holds Hearing on Health Care Workforce Shortage Model Programs. The Senate Committee on Health, Education, Labor and Pensions (HELP) held a Subcommittee hearing, “Recruiting, Revitalizing & Diversifying: Examining the Health Care Workforce Shortage” on February 10, 2022. The subcommittee is hoping to begin a conversation about the “long-term forward-looking” workforce development investments they can make to recruit, retain and upskill the health care workforce, as well as increasing diversity. According to the subcommittee staff they want to highlight programs that are working particularly well on the ground that they think could serve as a model for how to look at this issue.

LeadingAge submitted questions and encouraged the subcommittee to address the staffing crisis aging services providers are experiencing, and the need for Congress to provide immediate relief to those who provide care for older adults.

Key Senate Telehealth Extension Bill Introduced. Senators Catherine Cortez Mastro (D-NV) and Todd Young (R-IN), introduced legislation, the *Telehealth Extension and Evaluation Act*, ([bill summary here](#)) that would extend the Medicare telehealth waivers for two more years after the end of the COVID-19 public health emergency (PHE). The bill sponsors and several stakeholder organizations are pushing to include this legislation in a spring funding package, or possibly with the continuing resolution set to expire in less than two weeks.

The *Telehealth Extension and Evaluation Act* is an extensive bill. Several practitioners, FQHCs and rural health clinics, that were provided with expanded telehealth flexibilities during the PHE would be allowed to continue these flexibilities for two years post PHE. The bill would require HHS to study the impact of the pandemic telehealth flexibilities to better inform Congress’ work to make telehealth flexibilities permanent using comprehensive cost and data. The study should include the effects of changes to telehealth under the Medicare and Medicaid programs during the COVID-19 emergency. Specifically, the number of telehealth visits (audio-only and video visits, and in-person visits), disaggregated by service type (i.e., mental health, primary care). Additionally, the study should review any changes in utilization over the course of the PHE, and geographic data on both the patients utilizing telehealth services and the corresponding providers offering telehealth services. HHS would make available to Congress an interim report one year after passage of the bill, and a final report 18 months after the expiration of the PHE.

The *Telehealth Extension and Evaluation Act* is similar to a House bill (H.R.6202), introduced in December 2021. The bills also support recommendations included in a sign-on letter sent to Congressional leadership last week, urging a temporary telehealth extension before taking up permanent legislation to expand access in 2024. LeadingAge and its Center for Aging Services Technologies (CAST), joined 336 of the nation’s health care provider and patient organizations, in signing this letter.

Home Health Value-Based Purchasing Expansion. CMMI is expanding their home health value-based purchasing program nationwide as of January 1, 2022. This year is a pre-implementation year to allow home health agencies time to learn about the expanded model without risk to payments. CMS requires all Medicare-certified home health agencies (meaning, those with a CMS certification number or CCN, and those who have received payment from CMS). CMMI will host a Home Health Value Based Purchasing TA call this Thursday, February 10th at 2:00 PM ET. [Registration now open!](#)

OASIS-E Updates. In the CY 2022 Home Health Rule CMS finalized the implementation date of OASIS-E for January 1, 2023. Implementation was previously delayed to provide HHAs flexibility during the Public Health Emergency. The updated draft OASIS-E is now available in the Downloads section of the OASIS Data Sets [webpage](#). The instrument is not final. Office of Management and Budget (OMB) approval is required and expected later this year.

How to Strategize for a Stronger Workforce. Every day, aging services organizations juggle the multiple challenges of dwindling staff, growing financial strain, and an unrelenting pandemic. If these issues are affecting you, explore new resources on the [LeadingAge Learning Hub](#) that can help address workforce struggles your organization may be facing. Free to access for LeadingAge members.

- [Culture Driven Recruitment \(New!\)](#)
In this 27-minute QuickCast, Denise Boudreau highlights ways organizations can be more intentional about assessing their culture to positively impact recruitment efforts.
- [Tips to Improve Employee Retention](#)
In this 9-minute QuickCast, Cara Silletto outlines how aging services providers can begin to think differently about the new hire experience and help reduce unnecessary employee turnover.
- [Re-Ignite Your Organizational Culture](#)
In this 32-minute QuickCast, Donna Cutting details eight recruitment and retention strategies LeadingAge members can implement to strengthen their workforce culture in today's environment.

Register Now! 2022 Leadership Summit. The LeadingAge Leadership Summit is back. This event is among the most valuable networking events in aging services—bringing together providers, business firms, and policy experts over three days of keynotes, education sessions, and VIP discussions. Register today for the [2022 LeadingAge Leadership Summit](#) on March 28-30 in Washington, DC.