



Housing Weekly Recap

January 14, 2022

There will be **no LeadingAge Housing Advisory Group call and no 3:30 LeadingAge update call on Monday, January 17**. LeadingAge offices will be closed that day for Martin Luther King, Jr. day. To save your searching for it, here's a link to Dr. King's ["Letter from Birmingham Jail."](#)

OSHA ETS Blocked. In a 6-3 [decision](#) on January 13, the Supreme Court granted a stay of the OSHA vaccine mandate and testing Emergency Temporary Standard and prohibited OSHA from enforcing the ETS pending further legal proceedings in the Sixth Circuit Court of Appeals. The Court found that OSHA overstepped its authority in issuing such a broad ETS. The practical effect of this will be that OSHA will not be able to enforce the ETS while the legal proceedings make their way through the courts. Because the case will take time to make it through the judicial process and the OSHA ETS only lasts six months, it will likely not be enforced in its current form as it will expire before it makes its way back to the Supreme Court. We will wait to see how OSHA responds to this decision and how they plan to proceed.

Congress Questions HUD, Providers on Deadly Fires. On January 13, House Committee on Financial Services Congresswoman Maxine Waters (D-CA), and several members of the Committee, including Representatives Emanuel Cleaver (D-MO), Ritchie Torres (D-NY), Alexandria Ocasio-Cortez (D-NY) and Madeleine Dean (D-PA), sent letters to HUD Secretary Marcia Fudge, as well as to New York and Philadelphia housing authorities, local officials, and property owners following the two fire-related tragedies that occurred in the last week. These fires took the lives of residents, including children, living in federally assisted housing located in Philadelphia, Pennsylvania and the Bronx, New York. The fires have put a spotlight on the condition, inspection, and ongoing maintenance of HUD-assisted housing. Read an article about the letters and link to the letters [here](#).

Fire Safety Resources. One of the HUD regional offices recently sent out an email of fire safety resources, which we thought we'd pass on here: [Electric Portable Space Heater Safety](#); [Heating Safety](#); [Smoke Alarms at Home](#); [Candle Safety](#).

HUD, HHS Ramp Up Test Kit Access for Housing Communities. Federal agencies announced in December that HUD-assisted housing communities can access COVID-19 test kits from Federally-Qualified Health Centers to distribute to residents. Despite challenges with supplies and partnerships, HUD and HRSA (the federal entity overseeing the community health centers) are ramping up efforts to increase access. We encourage housing providers to reach out to their community health centers for access to test kits and then fill out our [quick survey](#) to let us know what worked, and what didn't work. LeadingAge will use the results of the anonymous survey to help HUD and HRSA prompt health centers to forge better partnerships with HUD communities. More information [here](#).

Congressional Update. Advocates are working on the assumption that Build Back Better on a very temporary hold. If the package does move forward, we know it will look very different than the House-passed bill. The three weeks between next week's recess and the February 18 end of the current continuing resolution could give Congress the time it needs to get the bill done. If the bill survives, the size and scope of issues in BBB are expected to be scaled down. We are also focused on FY22

appropriations. If we do not have a final FY22 bill and are left with FY21 funding for all of FY21, it is unlikely there'll be enough funding for any new Section 202 awards and we'd be very worried about the ability of HUD to fully renew HUD rental assistance contracts with only FY21 resources, for example. The White House has pushed back the release of its FY23 budget request from the traditional first Monday in February to the first week of March, when the president will deliver the state of the union. Meanwhile, another COVID relief package is under discussion. The White House is expected to present a covid relief package to congress that includes funding for testing, vaccines, therapeutics, and to keep schools safe.

IRS Extends Various Housing Credit Deadlines. On January 10, the IRS issued Notice 2022-05 on the Low Income Housing Tax Credit program to extend previous relief for the 10% test for carryover allocations, the 24-month minimum rehabilitation period, the placed-in-service deadline, and other extensions related review of tenant files, physical inspections, and closure of common areas. Read a LeadingAge article about the extensions and link to the new Notice [here](#).

Making Sense of CDC Recommendations: Interview with Dr. Nimalie Stone. [Here](#) is an article about our interview on Monday's Update Call with Dr. Nimalie Stone, Senior Advisor for Long-Term Care Partnerships, Division of Healthcare Quality Promotion, Centers for Disease Control and Prevention. Nimalie emphasized that nursing homes should be looking at the recommendations related to healthcare providers, rather than the general public. The healthcare guidance is more conservative, she noted, because the population healthcare workers care for is more vulnerable than the general public. She also advised that other providers (who do not offer nursing home services) should use their judgment about whether or not to use the healthcare recommendations. She further described some of the workforce staffing mitigations provided by CDC to address workforce shortages.

FCC Launces new Affordable Connectivity Program. The Affordable Connectivity Program is the successor to the Emergency Broadband Benefit program, which had a shelf life that now transitions most of its participants directly into the new Affordable Connectivity Program. Through the program, eligible households will receive up to a \$30 per month discount toward internet service as well as a one-time discount of up to \$100 for a device like a laptop, computer, tablet or hotspot. Eligible households are those with incomes below 200% of the federal poverty guidelines or who meet eligibility criteria for a long list of federal means-tested programs. Final program rules will be adopted by the FCC this month. In December, LeadingAge submitted [comments](#) calling on the FCC to utilize the implementation of the ACP to fix barriers to participation for HUD-assisted households, including lack of data-sharing between HUD and the FCC, no path for automatic eligibility verification for HUD Multifamily tenants, and challenges with bulk internet provision throughout HUD communities utilizing the discount. We are excited about the program's launch, which highlights how critical internet access is for households, and know many residents and staff of LeadingAge providers will benefit from it. See the FCC website for the [Affordable Connectivity Program](#).

Guidance on Coverage of At Home Tests by Insurance. HHS and DOL issued guidance today for coverage of at home tests by insurance. Private insurance must cover up to 8 tests per month per person. If your health plan provides for direct coverage, they will be free at point of sale or you will be eligible for reimbursement. Direct coverage means that your insurance company set up a network of providers (both in person and on line). Insurers are incentivized to do this because if they do so, they

can limit reimbursement of the test's costs for in network tests to \$12 per individual test. If they do not have a network, they must reimburse the full cost of the tests. If your plan has a network and you buy a test outside of the network, you can still be reimbursed up to \$12 per test.

Medicaid and CHIP must cover at home tests with no cost sharing. Medicare FFS cannot cover at home tests but will continue to cover PCR and antigen tests when ordered by a health professional. There are a number of distribution points that are offering tests for free such as at FQHCs, RHCs, and through the new website that will be up shortly. Medicare advantage plans may offer coverage and payment for at home tests, so Medicare advantage members are encouraged to check with their plans to understand coverage and payment by their plan.

The guidance can be found at: <https://www.cms.gov/newsroom/press-releases/biden-harris-administration-requires-insurance-companies-and-group-health-plans-cover-cost-home> and FAQs can be found at: <https://www.cms.gov/files/document/11022-faqs-otc-testing-guidance.pdf>