

**Highlights for LPCs:**

**LPC December Call Materials Available:** On Thursday, December 16, the LPC Advisory Group met to discuss the prescient topic of Diversity, Equity and Inclusion. The full [recording](#) and [slides](#) are available in the links provided; these [notes](#) also include a rich array of resources shared by the panel.

**Latest NIC Wave Survey Results:** The latest NIC Survey, [Wave 35](#), reinforces occupancy and staffing shortage trends that members have reported at the end of 2021. Compared to earlier surveys, the pace of move-ins in Independent and Assisted living has slowed, memory support move-ins are stable and nursing home admissions have increased slightly. Eighty-one percent of multi-site organizations reported significant staffing shortages; of those, 45% reported shortages on all properties, and 36% on most properties operated by the organization. In terms of biggest challenges to the organization, the top challenge for survey respondents remained consistently 'attracting community/caregiving staff,' at 84%. However, 'staff turnover' as a challenge reportedly increased between this survey and the last one; 70% of respondents in this survey as compared to 53% in the last survey. One hundred percent of respondents said that 'overtime' is one way they are addressing staff shortages; 77% said they were using 'agency/ temp staff, and 20% of respondents reported using 'agency/temp staff' for 100% of their staff vacancies. Finally, organizations were much less optimistic about when occupancy would return to pre-pandemic levels; 36% now say it will not happen until 2023, the largest increase in this projection over the last 10 Wave surveys.

**Information on Provider Relief Fund 2<sup>nd</sup> Reporting Period.** Here is a quick refresher on the basics...the second reporting period covers PRF funds received between July 1 and December 31, 2020. These will include Phase 2, 3 and some of the Nursing Home Infection Control (NHIC) dollars. Providers can apply eligible coronavirus expenses and lost revenues from January 1, 2020 through December 31, 2021 to these funds but only if they weren't reported previously AND they weren't covered by another funding source or required to be covered by other sources. (e.g. PPP or Medicare, etc.) It should be noted that Nursing Home Infection Control PRF can only be used for infection control expenses and NOT lost revenues. For nursing homes who received these funds will want to divide their expenses into infection control and non-infection control expenses first, in order to maximize the use of these NHIC payments. Providers have until March 31, 2022 to submit their second period report. However, they should begin compiling their information now. Anyone who has been through this already will tell you that it isn't easy and you don't want to leave it to the last minute. LeadingAge encourages providers to start by reviewing the available resources for reporting on the HRSA website prior to and while working on their reports. Here are some highlights of these resources:

- [PRF Reporting Portal](#) - This is where new reporters will register and where everyone will submit their data for their second report. HRSA includes a number of key resources for reporting at the bottom of this page.
- For those who haven't reported previously, your first step will be to register and the [PRF Portal Registration Manual](#) would be worth reviewing before you start. This information will likely be covered in the Jan 12 HRSA webinar on reporting for new reports.
- Once you begin to work your way through the reporting process, you will want the [PRF Portal – Reporting User's Guide](#) – This was updated on December 30, 2021 to reflect

changes to the process and portal. It includes tips so you don't lose data and provides definitions of what information they are looking for in each section. While you do not need to complete the entire report in one sitting, it is a good idea to pull together your information before you sit down. HRSA has put together a worksheet to help with this process. It has been updated and now includes tabs for documenting your infection control expenses for NHIC funds. They are called [portal worksheets](#). A link to the worksheets can be found on the [HRSA reporting resources page](#).

- Finally, it doesn't hurt to keep the PDF of the [PRF FAQ document](#) handy for questions as you move your way through your report.

We are currently reviewing the content of the new and updated PRF reporting resources and will be sharing more information as we have it.

### **COVID-19 Related Updates:**

**US Supreme Court Oral Arguments on CMS IFR and OSHA ETS.** Here is the link to the [US Supreme Court webpage](#). There you will find all the briefs that have been filed by the parties involved in the challenges to the CMS IRF and the OSHA Vaccination and Testing ETS. The Supreme Court will hear oral arguments on both cases starting at 10:00 AM ET on Friday, January 7. There is a link on the webpage to listen live to the oral arguments on Friday. We anticipate a decision to be issued relatively soon after the oral arguments and will forward it as soon as it is released.

### **Update on the CMS Interim Final Rule and OSHA Emergency Temporary Standard**

- **Supreme Court**

We anticipate the Supreme Court will rule soon after the oral arguments because some of the deadlines for compliance with the OSHA ETS kick-in on January 10<sup>th</sup>. Also, we should get a good indication from the oral arguments and questions asked by the justices on how they will ultimately decide on the injunctions.

- **OSHA ETS Enforcement**

As we await for the Supreme Court decision, the [OSHA Vaccination and Testing ETS](#) remains in effect. OSHA will not issue any citations for noncompliance with any ETS requirement until January 10<sup>th</sup> and will not issue any citation for noncompliance with the testing provisions of the ETS until February 9<sup>th</sup> so long as employers are exercising reasonable, good faith efforts to come into compliance with the standard.

All providers should be preparing diligently to comply with the OSHA Vaccination and Testing ETS. Moreover, now that the June 2021 Healthcare ETS has expired, the OSHA Vaccination and Testing ETS now applies to *all* providers with 100 or more employees. Note - the recordkeeping provisions of the June Healthcare ETS are still in place and OSHA plans to enforce workplace safety through the OSHA general duty clause so providers need to continue to ensure a safe workplace under OSHA rules. The medical removal benefits, however, are no longer in effect.

- **CMS IFR Enforcement**

On December 28<sup>th</sup>, CMS updated its [guidance](#) and is now moving forward with enforcing the vaccine mandate in the 25 states where there is not an injunction in place. CMS updated the vaccine mandate compliance dates to January 27<sup>th</sup> (phase 1) and February 28<sup>th</sup> (phase 2) respectively, and the guidance contains additional information on how it will be enforced.

Also, providers must be prepared to comply with the OSHA Vaccination and Testing ETS – especially those that are in states where an injunction of the CMR IFR rule is currently in place. For those in state where the CMS rule being enforced they need to comply with any OSHA ETS requirements that fall outside of the CMS IFR.

We realize how much of a mess this is for providers currently and hopefully the Supreme Court decision will clarify these issues – one way or the other.

Here is a [summary](#) that addresses the OSHA Healthcare ETS expiration and another [article](#) that discusses the interplay between the OSHA and CMS rules.

**Updates to COVID-19 Return to Work and Vaccine Toolkits.** With the CMS and CDC new guidance and updates, the following toolkits, policy and procedures and forms have been updated:

- COVID - 19 Vaccine Employee Policy
- Screening and Monitoring - Return to Work criteria policy and procedure, including new grid from CDC update from 12/23
- Sample LOG for vaccine documentation
- Sample Religious Exemption Form
- Sample Medical Exemption Form

You can find the updates and forms [here](#).

**Dispelling COVID Myths QuickCast.** In this 20-minute QuickCast in the LeadingAge Learning Hub, Dee Pekruhn separates fact from myth when it comes to getting vaccinated, and provides a curated list of resources for building confidence in COVID vaccines. You can access it by clicking [here](#).

**CDC Shortens Booster timing recommendation.** CDC revised its guidance on [Booster Shots](#) today to shorten the time from the last primary dose to the booster for Pfizer-BioNTech. The new interval is five months. It is still six months for Moderna.

**HHS Monoclonal Antibodies distributions for this week.** Here is [the table of state by state distribution of Monoclonal Antibodies](#) (mAB) for the week of January 3-9. Reminder that mAB treatment has been found to not be effective for treating Omicron variant cases.

### ***Advocacy Alerts and Hill News:***

**Senators send letter to Secretary Becerra on testing.** Senator Blunt (R-MO) and Senator Burr (R-NC) sent a letter to Secretary Becerra about testing and how the money allocated for testing in the various COVID relief vehicles is being used. You can find the letter [here](#). We will follow up with both offices to thank them for their efforts and to monitor the Administration's responses.

**Treasury Releases Final Rule on State and Local Relief Funds.** Today, the Department of the Treasury issued its final rule on the \$350 billion state and local fiscal recovery funds programs. These funds were provided by Congress to state and local governments by the American Rescue Plan in 2021. States and local governments were allocated the funds in 2021 and have been spending the funds at a brisk pace under the guidelines of a May 2021 interim final rule. The January 6 final rule provides some changes, clarification and flexibilities to the interim final rule. One change provides an expanded set of households and communities that are presumed to be "impacted" and "disproportionately impacted" by the pandemic, thereby allowing recipients to provide responses to a broad set of households and

entities without requiring additional analysis. Further, the final rule provides a broader set of uses available for these communities as part of COVID19 public health and economic response, including making affordable housing, childcare, early learning, and services to address learning loss during the pandemic eligible in all impacted communities and making certain community development and neighborhood revitalization activities eligible for disproportionately impacted communities.

### ***News from LeadingAge:***

**Mike King Previews His Term as LeadingAge Board Chair** [New LeadingAge Board Chair Mike King](#) began his two-year term on January 1. [Hear his thoughts](#) on how his background prepared him for this position, his priorities for LeadingAge, and what makes him optimistic as he assumes this new role.

### **Opening Doors to Aging Services Workshop: January 27, 2022**

Mark your calendars for a 90-minute workshop on implementing the research-based communications strategies and messages behind Opening Doors to Aging Services. You'll learn how to deploy the best tactics to introduce aging services to the public. strengthen your social media, website, and media relations, and get access to an array of communications templates to support your work. [Register for the live January webinar now!](#) (And don't miss the prerequisite, free, [QuickCast series](#) on the initiative.)

### **Now Available: 2021 LeadingAge Annual Meeting Session Playback Package**

The October Annual Meeting agenda included sessions to help us strengthen the aging services workforce, advance equity and diversity in our sector, reset the narrative of aging services for the public, and much more. The [Session Playback Package](#) is now available to access and includes all keynotes, as well as over 25 education sessions.

### **Save The Date: 2022 Leadership Summit**

Today's aging services environment requires smart, dynamic leadership—and now is the time to invest in the innovative strategies that put us on a course toward a stronger future. Make plans now to be part of the [2022 LeadingAge Leadership Summit](#) on March 28-30, 2022 in Washington, DC. Watch this space: 2022 Leadership Summit registration opens in mid-January.

### **How a LeadingAge Member Is Creating an Advanced Role for Direct Care Staff**

Read [a new member story](#) showing how [Trinity Health Senior Communities](#) has partnered with PHI to develop an advanced CNA job description, “transitions specialists,” to serve post-acute clients before, during, and after their rehabilitation stays. Such advanced roles can help in both recruitment of new staff and retention of current employees. The [LeadingAge Story Collector](#) powered by Greystone makes it easy to tell us your story. Try it today!