

LPC Weekly Report

Friday, April 22 2022



Highlights for LPCs:

Next LPC Member Network Meeting: Join us for the next monthly meeting on Thursday, April 28 2022 at 2:00 PM ET. The topic of discussion will be on risk, liability and contract revisions in a post-pandemic landscape. We have another great panel lined up, including Julie Wooley, General Counsel for National Church Residences, Cory MacDonald, attorney-at-law with MacDonald Resnevic, and Rafael Haciski, VP of Senior Living for Johnson Kendal Johnson Insurance. To register, email Dee at dpekruhn@leadingage.org.

NIC Wave 39 Survey Results Posted. The National Investment Center [posted](#) its next round of WAVE survey results, centered mostly on workforce recruitment and retention challenges. The majority of providers reported their staffing crisis as severe (27%) or moderate (67%), with 100% paying overtime wages and 75% relying on temp/ agency staff to backfill vacancies, a slight decline from the last survey. Most staffing shortages were attributed to an inability to fill nursing aide positions (54%), wage competition (44%), and inability to hire nurses (33%). A [list of strategies](#) found to be particularly effective in hiring nursing staff is found in the report. Twenty-five percent of providers reported that over 20% of their full time positions were vacant; holding on to new recruits over time also proved challenging, with 46% of providers saying they retained at least 80% of new hires after the first month, but that same number dropped to 17% of providers after the first year. The vast majority (90%) of providers reported that rising operating expenses are a great challenge, with 60% stating that their expenses had increased between 10-14% during the pandemic. Technology and telehealth remained high on the list of solutions to communications challenges, and the pace of move-ins continued to track closely with the COVID infection rates across the U.S.

OSHA Proposes Rule to Modify Tracking of Workplace Injuries and Illnesses. OSHA recently published a [proposed rule](#) titled "Improve Tracking of Workplace Injuries and Illnesses." [Here](#) is an article that provides a good summary and history of the proposal and several concerns that have been identified. Comments are due by May 31. OSHA is seeking to amend the occupational injury and illness recordkeeping regulation to require certain employers to electronically submit injury and illness information to OSHA that employers are already required to keep under the recordkeeping regulation. OSHA proposes to amend its regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300, 301, and 300A to OSHA once a year.

OSHA intends to post the data from the proposed annual electronic submission requirement on a public website after identifying and removing information that reasonably identifies individuals directly, such as individuals' names and contact information. The full data submitted would also be available to the general public under a Freedom of Information Act request. Finally, OSHA is proposing to require establishments to include their company name when making electronic submissions to OSHA.

2022 General and Professional Liability Benchmark Report for Senior Living and Long-Term Care Providers. Marsh's Senior Living & LTC Industry Practice and Oliver Wyman Actuarial have partnered to conduct a 2022 update and expansion to the General and Professional Liability Benchmark Report for

Senior Living and Long-Term Care Providers. For Senior Living and Long-Term Care Providers to participate in the study or learn more, please contact LTCBenchmark@oliverwyman.com. There is no cost to participate, and all participants will receive a copy of the report and an invitation to the presentation of the results.

The information presented in this study is useful information for industry stakeholders interested in understanding important trends, loss drivers and other factors impacting resident care and quality. Included in the review will be an estimation of countrywide and state-specific trends. Especially relevant for 2022 will be the effect that the pandemic has had on losses. Marsh is partnering with LeadingAge, American Seniors Housing Association, Argentum, and AHCA/NCAL to distribute the survey to senior living providers.

ACL Forecasts New \$1 Million Direct Care Workforce Technical Assistance Center Grant Opportunity.

As it seeks to advance capacity to recruit and retain a high-quality direct care workforce capable of meeting the growing needs that older adults and people with disabilities, the Department of Health and Human Services (HHS) Administration for Community Living (ACL) has posted a new grant forecast announcement in "grants.gov" for a "National Direct Care Workforce Technical Assistance Center" in fiscal year 2022. HHS requires agencies to provide a "forecasted opportunity" to let the public know of an agencies plans to issue a Notice of Funding Opportunity (NOFO). The forecasted opportunity for the new Direct Care Workforce Technical Assistance Center indicates the estimated NOFO post date will be April 29, 2022, and the estimated application due date will be June 29, 2022. The discretionary project total funding level could range from \$1,200,000 to \$1,400,000. (HHS would likely not "forecast" publishing this announcement (including specific dates) if there weren't some likelihood it will happen.) [Here is the link](#), which is a "heads up." Eligible entities include national nonprofit organizations, as well as state and local governments, faith-based and community organizations. We will share additional information on this new grant opportunity as it becomes available.

LeadingAge Article on Tips for Members on how to Prepare for the Next PRF Reporting. Here is an [article](#) that summarizes the tips Nicole shared on today's Member Coronavirus call on ways to prepare for the next PRF reporting to avoid compliance issues and the need to return funds.

Friday, April 22 Last Day for Providers to Submit a Late Reporting Request. Providers, who encountered extenuating circumstances and failed to submit a required PRF report in Reporting Period 1, have an opportunity to submit a late report if their [request](#) is submitted before 11:59 p.m. ET and approved by HRSA. Providers can find more information about this late reporting process [here](#).

HRSA Adds a 5th Reporting Period for Phase 4 dollars and Other Key Dates: A question members have often asked is when will they report on the Phase 4 funds they are receiving now. HRSA recently answered this by adding a 5th reporting period which will run from July 1 – September 30, 2023. Here is an [article](#) that discusses this new reporting period and other key PRF dates of which providers should be aware.

COVID-19 Related Updates:

CMS HCBS Webinar: "How States Can Assist Providers in System Transformation to Achieve Settings Compliance." LeadingAge staff attended a webinar today that highlighted the importance of States' support to providers for compliance with HCBS settings criteria as they work together to meet the March 17, 2023, compliance date. Additional notable points include the importance of maintaining key HCBS flexibilities used during the PHE, such as expanded use of technology, as well as the use of fiscal strategies, such as value-based payments, and use of section 9817 ARPA funds to increase HCBS provider capacity. Providers who require outside support will be able to apply for a special one-time payment to assist with costs of compliance with HCBS settings regulation. See the PowerPoint PDF with contact information for CMS technical support [here](#)

DOJ, OIG Bring Charges on COVID Fraud. The multi-agency, 2022 National COVID-19 Health Care Fraud Enforcement Action [announced](#) criminal charges this week against owners and executives of medical businesses, physicians, marketers, and manufacturers of fake COVID-19 vaccination record cards. DOJ is charging 21 defendants for their alleged participation in various fraud schemes involving health care services that exploited the pandemic and resulted in COVID-19-related false billings to federal programs as well as theft from pandemic assistance programs to the tune of \$149 million. In connection with the enforcement action, DOJ seized over \$8 million in cash and other fraud proceeds.

FROM HHS:

1. **Virtual Summit on COVID-19 Vaccination:** The White House and the U.S. Department of Health and Human Services invite you to attend [“We Can Do This Summit: Conversations on Encouraging COVID-19 Vaccinations”](#) scheduled for Friday, April 22, 2022 at 12 PM, ET. The virtual Summit will feature conversations among leading doctors, medical professionals, parents, and community leaders about COVID vaccines and how the broader medical community can encourage vaccination among pregnant people, children, teens, and young adults. You can watch the summit live here: https://www.youtube.com/watch?v=Flu4wSPj_rc
2. **Mask Order:** CDC [released a statement](#) on masks in public transportation settings. To protect CDC’s public health authority beyond the ongoing assessment announced last week, CDC has asked DOJ to proceed with an appeal in Health Freedom Defense Fund, Inc., et al., v. Biden, et al. It is CDC’s continuing assessment that at this time an order requiring masking in the indoor transportation corridor remains necessary for the public health. CDC will continue to monitor public health conditions to determine whether such an order remains necessary. CDC believes this is a lawful order, well within CDC’s legal authority to protect public health.

First COVID-19 Diagnostic Test Using Breath Samples: The U.S. Food and Drug Administration (FDA) [issued](#) an emergency use authorization (EUA) for the first COVID-19 diagnostic test that detects chemical compounds in breath samples associated with a SARS-CoV-2 infection. The test can be performed in environments where the patient specimen is both collected and analyzed, such as doctor’s offices, hospitals, and mobile testing sites, using an instrument about the size of a piece of carry-on luggage. The test is performed by a qualified, trained operator under the supervision of a health care provider licensed or authorized by state law to prescribe tests and can provide results in less than three minutes.

KFF releases comprehensive guide to PHE unwinding: KFF released a one stop shop with regards to what PHE flexibility ends when. This does not just focus on Medicaid but flexibilities across various authorities. The resource can be found [here](#).

Advocacy Alerts and Hill News:

White House releases Bipartisan Infrastructure Law Rural Playbook. Today the White House updated its “Roadmap for Delivering Opportunity and Investments in Rural America” with a [Bipartisan Infrastructure Law Rural Playbook](#). The new legislation promises billions of dollars for high-speed internet, transportation, improvements to roads and bridges, clean drinking water, and modernized wastewater systems. The playbook is intended to help communities understand the available funding set aside for rural areas and how to apply for these federal dollars.

HHS policy briefs on strategic approaches to social determinants of health (SDOH). The HHS Office of the Assistant Secretary for Planning and Evaluation posted [three policy papers](#) that: explain why HHS has identified addressing SDOH as a major priority; describe HHS’s strategic approach and specific actions the Department is taking to address SDOH; and link how these actions build on evidence in the field on what works. Social determinants of health (SDOH) include factors such as housing, food and nutrition, transportation, social mobility, and environmental conditions as having significant impact on

Washington State Revamps LTC Insurance. In 2019, Washington State passed a first-in-the-nation, publicly funded long term care insurance programs. According to a [report](#) by Kaiser Health News, Washington is looking to revamp this system before it even gets started. The payroll tax deduction used to fund the program will start in July 2023 instead of the planned January 2022 and benefits will become available in July 2026. California, Illinois, and Michigan are considering similar implementing programs.

News from LeadingAge:

Welcome to Meredith! Meredith Chillemi joined our policy team today as the Director of Medicaid and HCBS Policy. Meredith is based in California and has great experience across our continuum and with Medicaid. We are so thrilled to have her on board.

New! MyLeadingAge Member Community Group for Assisted Living Providers. Assisted living members will want to check out our newest Member Community group that offers an opportunity to connect with other assisted living providers, ask questions, look for resources, and share ideas on all aspects of assisted living operations and policy. Join today at community.leadingage.org.

Careers in Aging Week. Careers in Aging Week continues! Join LeadingAge, Argentum, ACHA/NCAL, and the Gerontological Society of America to promote professions in the field of long-term care. Check out the [Careers in Aging Week webpage](#) for turnkey tools such as flyers, posters, social media posts, Zoom backgrounds, PowerPoint templates, logos, videos, webinars, and more. We encourage you to participate (and be sure to include #CareersInAging in social media posts).

Nominate Someone for a LeadingAge Award Today! The LeadingAge annual awards honor individuals that embody excellence in mission-focused aging services leadership, are models of quality and innovation, and are making outstanding contributions to our field that merit national recognition. Nominations are currently being accepted in three categories: [Award of Honor](#), [RWJF Award for Health Equity presented by LeadingAge](#), and [Joan Anne McHugh Award for Leadership in LTSS Nursing](#). The deadline to submit your nomination is June 17, 2022. [Learn more about the award criteria and nomination process](#).

Collaborative Care Tech Summit 2022. Registration is now open for the virtual [Collaborative Care Tech Summit](#) taking place June 7-8, 2022. This year's theme, "Connecting and Strengthening Workforce," will offer solutions to challenges LeadingAge members and other care providers are experiencing. [Learn more about the summit](#) and [register today](#) for invaluable insights on solving these workforce challenges.

LeadingAge Member Directory: Please Review & Update Your Listing. LeadingAge.org includes an [Aging Services Directory](#) of members that is available to the general public. This directory is included in our new [Keep Leading Life](#) campaign to raise awareness about the full aging services sector. Members can make changes directly to their listing, adding people, updating info, and even sharing testimonials and photos. Your staff who are designated as Company Managers have access to make edits. [Visit this page](#) for more information, and if you have questions or get stuck, contact us at MyLeadingAgeSupport@LeadingAge.org or call 202-783-2242. (And find Keep Leading Life campaign materials, which debuted at the 2022 Leadership Summit, at openingdoors.org/resources/ for you to download.)