



January 10, 2022

Lee Fleisher, M.D.
Chief Medical Officer
Director for Clinical Standards and Quality
Centers for Medicare & Medicaid Services

Dear Dr. Fleisher,

We know you are aware of the ransomware attack Ultimate Kronos Group (UKG) faced on December 10, 2021, which impacted approximately 1,000 skilled nursing (SNF) providers. I would like to share with you the impact of this attack to our providers along with some recommendations for accommodation.

The impacted SNFs lost access to their time and attendance keeping systems starting on December 10, 2021, and it is estimated that their services will be restored by the end of January 2022. Since December 10, 2021, they have had to use a variety of alternate mechanisms to keep record of time and attendance for payroll purposes. Historical staffing data prior to December 10th will be available to submit to CMS, but not until sometime after full restoration. Therefore, it is unlikely that these providers will be able to submit their 2021 Quarter 4 staffing data to CMS's Payroll Based Journal (PBJ) system by the upcoming February 15th deadline. In addition, the data between December 10th and the January restoration are in formats that make it impossible for some, and extremely difficult for others, to submit for that time-period. During this time-period, providers are focusing on collecting data to ensure that staff can be paid; however, this data does not necessarily capture if the hours worked are for direct patient care or not. Therefore, the required information needed for PBJ reporting is not available and to reconstitute the data from December 10th through the end of January 2022 to submit accurate and reliable data to CMS is nearly impossible or would take an enormous amount of staff time during the current pandemic-related staffing crisis.

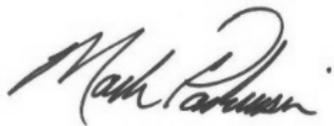
As this ransomware attack is clearly outside the control of SNFs and data between December 10th and the end of January required for PBJ submission cannot be sourced conventionally, we recommend that CMS consider the following accommodations for the centers impacted.

1. Not penalize the 1,000 nursing homes using UKG's system for being late in submitting their data for the fourth quarter of 2021.
 - a. Our members have indicated that they can submit data prior to December 10th, but not before the February 15th deadline. Once systems are restored, they have been informed by UKG that they should be able to submit any data prior to December 10th as well as data for after the restoration, currently expected to be the end of January.

2. Allow providers to submit data from October 1, 2021 to December 9, 2021 at a later time without penalty.
 - a. This will ensure CMS has at least 2 months of data to calculate staffing levels for public reporting and use in Five Star ratings.
3. Waive submission of staffing hours for the time period between December 10, 2021, and February 1, 2022 (or later if UKG restoration takes longer than expected) for impacted providers.
 - a. During this time-period, as noted above, providers are focusing on collecting data required to keep their operations going. Providers have been collecting this data to support payroll in a variety of different methods; for some it will be impossible to provide hours worked as required by PBJ and for others it would require an enormous amount of staff time to assemble and submit the information. With the current severe staffing crisis reformatting the data for PBJ will take away from resident care. The public policy benefit of submitting the PBJ data can be met by data for two of the three months in each quarter which will be available. An evaluation of PBJ shows that the staffing HPRD do not change appreciably week to week or quarter to quarter. As such, the loss of data for one month in each quarter for these 1,000 SNFs will not have an appreciable impact on public reporting or CMS oversight.
 - b. For the timeframes with missing data, CMS can either rely on two months of data or utilize a reasonable methodology for imputing updates to the Five Star system.

We appreciate your consideration of our recommendations. Should you have any questions or need additional information please feel free to contact either of us or Dr. David Gifford, AHCA's Chief Medical Officer or Ruth Katz, Leading Age's Sr VP of Public Policy & Advocacy.

Sincerely,



Mark Parkinson,
President & CEO,
American Health Care Association



Katie Smith Sloan
President and CEO
Leading Age

cc:

David Wright, Director, Quality Safety & Oversight Group
Karen Tritz, Director, Survey Operations Group
Evan Shulman, Director - Division of Nursing Homes, CMS