



Medicaid HCBS and PACE Weekly: Recap of Leading Age Updates

October 14, 2022

NO COVID UPDATE CALLS ON THE WEEK OF OCTOBER 17 – WE WILL BE AT LEADINGAGE’S ANNUAL MEETING. On **Monday, October 24, at 3:30 PM ET**, **Taryn Williams U.S. Department of Labor Assistant Secretary for Employment** will talk about resources her office has developed for employees who have Long COVID. In addition, we’ll discuss what the Department is doing to support employers who in turn can support the changing mental health needs of workers. On **Wednesday, October 26 at 3:30 PM ET**, **Dr. Michael Barnett of the Harvard T.H. Chan School of Public Health**, will join the call for a conversation about COVID and people over age 65. In addition, we’ll ask him about his work on the increased need for mental health services and barriers to access, including his focus on particular concerns in rural areas. If you haven’t registered for LeadingAge Update Calls, [you can do so here](#). You can also find previous call recordings [here](#). Note that to access recordings of the calls you need a LeadingAge password. Any staff member of any LeadingAge member organization can set up a password to access previous calls and other “members only” content.

CNA Training Waivers. Several states have applied for CNA training waivers due to backlogs in training and testing. (LeadingAge is keeping track [here](#)). While these new waivers were introduced in relation to the original nurse aide training federal blanket waiver and individuals hired prior to the waiver’s termination on June 6, 2022, nurse aide training and testing backlogs also impact individuals hired after June 6, 2022 and currently working as nurse aides. CMS has confirmed to LeadingAge that the new waivers also apply to individuals hired after June 6, 2022 if the state or nursing home has been granted a waiver and training/testing backlogs prohibit these individuals from meeting training/testing requirements for certification within 4 months. Remember that individuals working under these waivers must continue attempts to complete training/testing and waivers are time-limited, ending with the expiration of the public health emergency or expiration of the new waiver, whichever comes first.

Department of Labor Announces Proposed Rule on Classifying Employees, Independent Contractors. The United States Department of Labor has [announced](#) it will publish a proposed rule on Oct. 13 that provides an analytical framework for determining whether a worker is an employee or an independent contractor under the Fair Labor Standards Act (FLSA). This distinction is important because FLSA’s minimum wage and overtime pay protections do not apply to independent contractors. An advance, unpublished copy of the proposal is available [here](#), which shows the Department intends to rescind a previously-issued 2021 Independent Contractor Status rule and, among other changes, restore a “totality-of-the-circumstances” analysis to determining whether a worker is economically dependent upon an employer for work versus being in business for themselves. LeadingAge will analyze the proposed rule and its impact for aging services providers and share additional information in the weeks ahead.

States Legislatures Taking Steps to Address Direct Care Wages. LeadingAge has compiled information on State legislatures addressing wages for the direct care workforce. We examined the different approaches state legislatures have used in recent years to increase wages. We also included state

examples to illustrate the approaches. [Here's](#) the link to our findings. Please email Eram (eabbasi@leadingage.org) if you have any questions.

Breakdown of Expanded Primarily Health-Related Benefits in Medicare Advantage. A new [chartbook](#) from ATI looks at trends in non-medical benefits provided by Medicare Advantage (MA) plans. Of note, the number of plans offering “Expansion of Definition of Primarily Health-Related” for Supplemental Benefits or EPHRB, has grown over the last three years from 499 plans offering some type of benefit to 1,438 plans offering benefits. The benefits reviewed include in-home support services, adult day health services, home-based palliative care, support for caregivers of enrollees, and therapeutic massage. Geography still prevents access to these new benefits with four states (Alaska, Montana, South Dakota, and Wyoming) notably lacking any plans with additional benefits.

- Adult Day Health Services: 5 states have plans offering Adult Day Health Services in at least one county. The number of plans offering Adult Day Health Services decreased from 50 in Plan Year 2022 to 41 in Plan Year 2023.
- Home-Based Palliative Care: 17 states have plans offering Home-Based Palliative care in at least one county. The number of plans offering Home-Based Palliative Care increased from 147 in Plan Year 2022 to 157 in Plan Year 2023.

NASHP releases actuarial analysis of Medicaid and Palliative Care. The National Academy for State Health Policy released a [report](#) on October 6 that looked at palliative care in the Medicaid program and the potential for cost savings. This is an actuarial analysis that can help states as they are thinking through whether to offer palliative care as a benefit.

The Long Shadow of COVID and Older People. Kaiser Health News released a [recording](#) of an event they hosted, the “Long Shadow of COVID: Older People and the Ongoing Pandemic.” The panel presentation covered the differential impact of COVID on older people, particularly those over age 85 and older people of color; vaccinations, boosters, and extra boosters; the confusion around “so many different messages” and questions about whether the pandemic is over; the impact of social isolation during the pandemic and even still; the impact of COVID on efforts to improve quality of life for people with dementia; and many other issues.

Supportive State Regulations Help Assisted Living Residents Die in Place. Researchers from Brown University School of Public Health [found](#) a positive correlation between states with supportive third-party service regulations and the likelihood of assisted living residents dying in place. The cohort study looked at more than 168,000 decedents in 8,315 large (25 beds or more) assisted living residences in the US. This study reviewed third party services for hospice, home health and private care aides in state regulations for assisted living providers. Only 13 states supported all third-party services, and 6 states remain silent on third-party regulations. Researchers note additional research is needed to identify the determinates of place of death and quality of end-of-life care for assisted living residents but supportive regulations for services are critical to meeting care needs.

tribal organizations are also eligible. Applications are open until November 3, 2022. Interested applicants can view HRSA’s recent webinars on tips for applying for the GACA program, which are available, [here](#).