



Nursing Home Weekly: Recap of LeadingAge 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.

CMS Response to LeadingAge Letter on Staffing and Quality in Nursing Homes. After the President’s introduction of a nursing home quality initiative in the State of the Union address on March 1, LeadingAge sent [a letter](#) to President Biden on March 11 outlining the need for an all of government solution to address the staffing crisis, take an evidence based approach to quality improvement, and fund quality care in the nation’s nursing homes. LeadingAge received a “snail mail” reply dated September 30 from CMS Administrator Chiquita Brooks-LaSure. The reply reiterates CMS’s commitment to improving the quality and safety of nursing homes, noting that throughout the pandemic CMS placed nursing homes at the center of its efforts. Linking to the White House fact sheet on the nursing home quality initiative, the letter describes that plan. Specifically, LeadingAge asked that fewer resources be devoted to high performing nursing homes and more to those that are poor performers; Administrator Brooks-LaSure said that would not be possible without statutory change. Interestingly, the request that other federal departments participate in efforts to promote change in nursing homes, was not addressed in the letter from the CMS administrator.

Nursing Home RoPs Tools and Resources. Have you noticed that things are looking different around www.leadingage.org? That’s because the new website is here! We’ll be continuing to work on the new site over the coming days but in the meantime, [here](#) is where you can find those new RoPs tools and resources to help you prepare for the October 24 implementation date (accessible from the [Nursing Homes topic page](#)). All resources require your LeadingAge login to access. If you have any questions or need help finding something, please reach out to Jodi (jevigor@leadingage.org).

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.