



## Workforce Policy Weekly

December 16, 2022

**Upcoming LeadingAge Coronavirus Call. On Monday, December 19 at 3:30 PM ET, Carrie Reed, DSc, MPH,** Acting Chief of the Epidemiology and Prevention Branch of the Influenza Division at CDC and **Dr. Barbara Mahon,** Acting Director, Coronavirus and Other Respiratory Viruses Division (CORVD) in CDC's National Center for Immunization and Respiratory Diseases (NCIRD) will join us to talk about vaccines, tests, and treatments. Dr. Mahon led part of the COVID response with CDC and has a great deal to share on the clinical evidence on boosters and treatments. They'll also explain [Nowcast](#), a model that estimates the most current estimates of circulating variants. It is a tool that LeadingAge members can use to track the most current information about COVID in their community, by variant, in order to determine if any actions need to be considered. We'll talk with these CDC experts about how aging services providers can use Nowcast. 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.

**LeadingAge Workforce Asks in Appropriations Bills Still in Play.** LeadingAge is urging Congress to include [several workforce program expansions](#) in its FY23 appropriations bills. As of December 16, the House and Senate had passed a one-week extension of the stop-gap Continuing Resolution, giving Congress until December 23 to finalize its FY23 spending bills. During the week of December 12, Congressional leadership reached agreement on a topline spending framework, paving the way for negotiators to iron out details within the 12 appropriations bills. Until enactment of the final FY23 bills, LeadingAge's [year-end action alert](#) is an important way for aging services workforce stakeholders to communicate appropriations priorities to their congressional delegation.

**White House COVID Preparedness Plan Includes HUD Test Kit Portal, Nursing Home Playbook, Other Highlights.** At 5:00 AM on December 15, the White House released a COVID-19 Winter Preparedness Plan, detailed in this [Fact Sheet](#). It covers updates on test distribution, vaccines, treatments, federal assistance if additional support is needed, critical supplies, monitoring variants, and a section on the "highest-risk Americans," including residents of nursing homes and other congregate care communities.

Importantly, the fact sheet announces that a test ordering portal for Section 202 affordable senior housing providers will soon be available; LeadingAge requested this portal and our work with HUD and the White House helped make it a reality. The fact sheet announces that a winter playbook for LTC providers will soon be released, summarizing actions providers can take to reduce serious illness, hospitalizations and deaths and minimize disruptions. It also addresses actions providers can take to improve air quality and circulation. A few descriptive details on the exemption form for LTC providers who meet the criteria to become vaccinators are also included; the exemption form has not been posted as of this writing (4:15 PM ET; December 15) though it is expected today.

The fact sheet also says that a limited round of free at home tests may be requested by all US households (4 per household) by visiting [this website](#) or calling 1-800-232-0233 (the fact sheet includes additional information on TTY access, and support in more than 150 languages). The fact sheet reports that HHS Secretary Becerra sent a letter to governors today, December 15, outlining key actions he

would like to see states take as they prepare for increased cases and hospitalizations this winter. Finally, it details how HHS is readying clinical personnel for deployment to alleviate strains on hospitals and health care systems.

LeadingAge is pleased to see that the Administration is bringing all its resources together to fight COVID this winter. We are also glad that many of the efforts on which we are collaborating with HHS are reflected in the fact sheet. For instance, the White House acknowledges that LeadingAge was the catalyst and helped activate the Section 202 test portal – not in this fact sheet but in public statements. Further, we asked that HHS ask hospitals to offer vaccines and boosters before discharge – that’s in this fact sheet. On a related note, we are very glad that the language referring to nursing homes in this fact sheet is supportive, an improvement over some previous White House documents. Here’s a [LeadingAge press release](#) on the White House announcement.

**Employee Retention Credits May Negatively Impact Providers’ Medicaid Rate Calculations.** LeadingAge Minnesota has shared that CMS informed the MN Medicaid agency that Employee Retention Credit dollars received by nursing homes will be treated like other tax credits. Based upon this CMS guidance, MN has said it will reduce the associated allowable expenses to the amounts incurred. In other words, it will only include those taxes paid in its calculations. Here is the question posed by the MN Medicaid agency to CMS, CMS’ response, and the citation it was based upon: How should states handle Employee Retention Credits and do the same principles apply when given direction that providers did not need to offset other CARES fund distributions such as PPP loans? CMS responded that ERCs are to be treated like any other tax credit. CMS referred MN Medicaid to the Provider Reimbursement Manual, 2122.7.

*2122.7 Review of Reasonable Costs, Including Taxes. -- In general, reasonable costs claimed by a provider, including taxes, must be actually incurred. While a tax may fall under a category that is generally accepted as an allowable Medicare cost, the provider may only treat the net tax expense as the reasonable cost actually incurred for Medicare payment purposes. The net tax expense is the tax paid by the provider, reduced by payments the provider received that are associated with the assessed tax. Contractors will continue to determine whether taxes and other expenses are allowable based on reasonable cost principles set forth in the Medicare statute and regulations.*

In essence, if this CMS interpretation stands, MN and possibly other states will have providers that could potentially see a significant reduction in their Medicaid Reimbursement Rate calculations or may not see the rate increases they expect based upon pandemic expenditures.

**House Select Subcommittee on the Coronavirus Crisis Holds Final Hearing and Adopts Report.** On December 14, the House Select Subcommittee on the Coronavirus Crisis held its final hearing titled, “Preparing for and Preventing the Next Public Health Emergency: Lessons Learned from the Coronavirus Crisis.” The final hearing highlighted the extensive oversight work performed by the Subcommittee, and it examined some of the 30 recommendations put forward in the subcommittee’s final report to strengthen the nation’s ability to prevent and respond to public health and economic emergencies. A few of the recommendations in the final report include accelerating development of next-generation coronavirus vaccines and therapeutics; increasing bivalent booster uptake; making investments in our health care workforce; as well as strengthening investments in affordable housing through HUD’s Housing Choice Voucher program and also through new construction of affordable housing. LeadingAge has been actively engaged with Congress and the Administration on each of these priorities.

The Subcommittee also released in its final report additional findings from its two-year investigation into five for-profit nursing home chains. One of the more notable findings is that while primary series vaccination rates among residents and staff were high, many residents and staff were behind on boosters as of July 2022. Although these findings were based on five specific for-profit nursing home chains, LeadingAge is currently partnering with the White House, HHS, CMS, and the CDC to increase bivalent booster uptake at nursing homes across the country.

The Select Committee also found for profit nursing home chains had significant staffing deficiencies throughout the course of the pandemic, and often provided low wages and poor benefits to their front-line workers. Additionally, many facilities failed to meet recommended staffing ratios for both registered nurses and nursing assistants during the 30-month period reviewed by the Select Subcommittee. The Subcommittee's final hearing was punctuated with a business session where it adopted its final report. However, Members have two legislative days to include their dissenting views and staff are authorized to make technical or clarifying changes to the final report as necessary. Any updates made to the final report will be provided as needed. The final report's adoption will be the Subcommittee's last official act, pursuant to its 2020 authorizing resolution. [The final hearing can be viewed here.](#) [The final report, including the Subcommittee's findings and recommendations, can be found here.](#)

**OSHA Submits Final Rule for OMB Review Concerning Occupational Exposure to COVID-19 in Healthcare Settings.** The Occupational Safety and Health Administration (OSHA) on Dec. 7 sent a final rule on Occupational Exposure to COVID-19 in Healthcare Settings to the Office of Management and Budget (OMB) for review. Members will recall that in June 2021, OSHA adopted a [Healthcare Emergency Temporary Standard \(ETS\)](#) intended to protect workers by mitigating and preventing the spread of COVID-19 in settings that provide healthcare or healthcare support services. OSHA withdrew the Healthcare ETS in Dec. 2021 (with the exception of record keeping provisions) but indicated that it intended to continue work on a permanent standard – informed by comments it had received from the public while the ETS was in effect. It is unclear when the final rule will be published, but OMB review is the final step in the process before publication occurs. LeadingAge will monitor closely for release of the final rule.

**LeadingAge Virtual Workshop: Opening Doors to the Aging Services Workforce.** LeadingAge knows the priority your organization places on workforce recruiting. To support those crucial efforts, we developed [Opening Doors to the Aging Services Workforce](#), and we are offering our first virtual workshop on how to enhance your recruitment communications on January 19 at 2 p.m. ET. [Join us for this useful workshop](#) to learn and discuss key findings, including how job seekers prioritize job attributes and benefits; effective communications strategies; tested message frames and messages; how to prepare attractive job descriptions and communications; and tips on the dissemination of job listings. [Registration is now open.](#)