



Nursing Home Weekly: Recap of LeadingAge Updates

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.

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 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 on 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: Leading Age MN staff recently shared with national that CMS informed their 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.

This is the question posed by the MN Medicaid agency to CMS, their 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 attached, 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.

More Nursing Homes will Soon Be Able to Vaccinate. LeadingAge has been working on the All Hands on Deck project to help nursing home members support more residents to accept bivalent boosters. LeadingAge providers, according to [our analysis of HHS data](#) (provided by LeadingAge New York), are surpassing all nursing homes for percent of residents who have accepted a booster. In exchange for communicating the importance of boosters and communicating with members during this 90-day push, we asked HHS to cut through bureaucratic red tape that would enable more nursing homes to become designated vaccination sites. These sites can order COVID-19 vaccines/boosters in single dose vials from designated enrolled pharmacies for direct administration to residents. This essentially equals the playing field with flu vaccines in terms of administration. The nursing home will have to show that it can store, prepare and administer the vaccine in accordance with all requirements and recommendations of CDC and its Advisory Committee on Immunization Practices (ACIP).

HHS will make available on the CDC website on Thursday, December 15, an agreement that must be signed and submitted to the CDC. The agreement will be effective for 90 days and allows the provider to delay some federal reporting during that time. Providers must still document the vaccine in medical

records and report, if required, to state Immunization Information Systems as required. Short [videos](#) from the White House to share with residents, family members, and staff about the importance of getting boosters before the holidays.

“Vax and Pax” Toolkit and Trust Building Toolkit. In case you missed this earlier, we spoke on this week’s Coronavirus Update Call with Erin Vigne, Director of Clinical Affairs for AMDA – The Society for Post-Acute and Long-Term Care Medicine, about the organization’s [new toolkit on vaccines and treatments](#) for COVID-19. The toolkit is highly curated and includes those resources judged by AMDA experts to be most useful in promoting vaccines/boosters and helping people understand and use treatments. The primary audience is clinicians in long-term care. One resource Erin highlighted on the call is a Paxlovid Fact Sheet for Patients, Residents, and their Caregivers; she said many providers have found it useful to share with families that need basic information about Paxlovid, possibly to correct misinformation. She also pointed to a [video explanation of COVID-19 vaccines](#) and suggested it could help residents, family members, and staff easily learn about vaccines.

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 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.](#)

Congressional Progress on FY23 Spending Bills. On December 13, a bi-cameral and bi-partisan group of legislators announced agreement on topline federal spending for fiscal year 2023. The agreement will allow negotiations for the specific funding levels in all 12 appropriations bills to move forward. The current continuing resolution (CR), which keeps federally-appropriated programs funded at FY22 levels for its duration, will expire December 16. Congress is now poised to enact a one-week extension of the

CR, to December 23, while it works to complete an omnibus package of all 12 fiscal year 2023 spending bills. With the topline agreement reached, LeadingAge's goals are twofold: first, for Congress to plod forward and finish an omnibus package by the new December 23 deadline to avoid a government shutdown and to avoid punting work to finish appropriations into the next session, whose members might not be as keen as this one's to invest new resources into programs meeting the needs of older adults; and, second, for the omnibus bill to reflect [LeadingAge's priorities](#).

On the HUD funding front, LeadingAge is thrilled with the apparent agreement to complete the appropriations bills as one of the alternatives, to have FY22 funding for the duration of FY23, would be devastating to housing programs whose costs rise each year even if the programs themselves don't expand. No reports on the negotiations indicate any inclusion of additional COVID-related funding, as requested by the White House, in the omnibus package. On the House floor the afternoon of December 14, House Appropriations Committee Chair Rosa DeLauro (D-CT) [called](#) the new one-week CR "a simple date change that keeps the government up and running as we negotiate the details of final spending bills and complete the work of funding the government programs that meet the needs of hardworking Americans."

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. We don't know when the final rule will be published, but OMB review is the final step in the process before publication occurs. We will monitor closely for release of the final rule.

HRSA Begins Issuing Final Repayment Notices for Non-Compliance with PRF Terms and Conditions: HRSA notified LeadingAge on Friday, December 9 that it has begun issuing final repayment notices to providers who are out of compliance with the terms and conditions for Provider Relief Fund payments. Reasons providers might be deemed out of compliance could include failure to report on Targeted Distributions such as the Nursing Home Infection control incentive payments. Providers who receive these notices can contact the Provider Support Line at 1-866-569-3522 if it is not clear why the provider is out of compliance or if they don't agree with the determination. HRSA said it will be publishing additional resources on its website early this week regarding these notices. LeadingAge will share the additional resources as they become available.