Medicaid HCBS and PACE Weekly: Recap of Leading Age Updates

December 23, 2022

Upcoming LeadingAge Coronavirus Call. No Calls next week on Monday, December 26 and Wednesday, December 28. On January 4, 2023, at 3:30 PM ET, Dr. Ashish Jha, the White House COVID Response Coordinator will join us to talk about the White House COVID Team's activities related to tests, vaccines, treatments, and everything COVID. He will especially highlight the Administration's focus on bivalent boosters for older adults – why it's important and some of the science behind waning immunity. Dr. Jha wants to hear your COVID questions – they help the Administration know what's going on in the field. 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.

Senate Approves Omnibus Package. On December 22, in the early afternoon, the Senate approved the $1.7 trillion Omnibus bill to fund the government and sent the bill to the House. The House must also pass it and send it to the President to sign. The current continuing resolution runs out at midnight on Friday, December 23, but the Senate is expected to pass another stopgap patch to extend current funding for another week, buying time for the bill to be enrolled and signed. The Senate bill included eight amendments to the original text released earlier this week; none of the amendments are directly relevant to aging services specifically. The bill does include legislation that would require employers to provide pregnant workers with certain accommodations, and workplace protections for nursing mothers. House leaders are aiming to vote December 22; members have been warned it may be a long evening.

The $1.7 trillion funding bill, H.R. 2617, includes in its 4155 pages a number of provisions LeadingAge advocated strongly for, although not all of our critical requests made it into the final Senate package. This link provides explanatory statements and bill summaries by federal department. The full Senate is expected to act first on the package, then send it to the House. Any Senator can hold up the deal in exchange for amendments or concessions – this is an important milestone, but not a "done deal." Lawmakers have until Friday (when the current Continuing Resolution ends) to finish work on the bill. (Note: "Discretionary" programs are included in this bill; the bulk of Medicare and Medicaid spending are "mandatory" budget items, not part of this process) LeadingAge will provide more analysis in coming days as we continue reviewing the bill and as it moves through the legislative process. Some highlights of interest to LeadingAge members include:

MEDICARE AND MEDICAID

- LeadingAge Advocacy Win! Medicare telehealth waivers were kept in place for 2 years, through 2024. This includes allowing the home to be the originating site, removal of geographic restrictions, expanded eligible practitioners, allowing the use of audio only telehealth services, and allowing the hospice face to face recertification to be done via telehealth. The legislation also requires a study on telehealth and program integrity.

- The Medicaid "unwinding" was delinked from the public health emergency. The continuous coverage provisions put in place by the Families First Coronavirus Response Act will end March 31, 2023. The increased FMAP will be phased out of the course of 2023. Q1, it remains at 6.2%. Q2, it will be 5%. Q3, it will be 2.5%. Q4, it will be 1.5%. There are a number of guardrails around transparency and reporting tied to states continuing to get the increased FMAP over the course of the year. We will provide more details on this provision in the coming days.
- The proposed physician fee cuts were reduced from CMS's proposal. The cuts will be 2% for CY2023 and 3.5% for CY2024 – the rule called for a 4.5% cut for CY2023. This impacts providers that bill part b – so among our members, palliative care practices, nursing home medical directors, primary care practices generally, referral sources to home health and adult day, and part b services across the continuum like PT, OT, etc.
- The hospital at home program waiver was kept in place for 2 years.

COVID-19

- Parts of a Pandemic Preparedness bill made it into the package, including making the CDC director into a Senate-confirmed position.
- Long COVID Research - The agreement includes $10,000,000 for health systems research on how best to deliver patient-centered, coordinated care to those living with Long COVID, including the development and implementation of new models of care to help treat the complexity of symptoms those with Long COVID experience.
- Other COVID-related provisions are spread throughout the bill; more information coming on them.

Key Highlights of the CY2024 Proposed Rule on MA Policy and Technical Changes. LeadingAge has written an article summarizing the key elements of the recently released 957-page proposed rule. Of note, are some key changes proposed to ensure MA plans cover basic Medicare Part A and B services for MA enrollees and limit unnecessary prior authorizations. LeadingAge will be soliciting feedback from members on the proposed rules early in January through our provider networks to inform our comments which are due February 13 at 5 PM ET. LeadingAge will also produce a guide to help members submit their own comments on the rule in early January.

Availability and Prioritization for Tamiflu. With cases of flu on the rise, the Biden Administration last week directed states and jurisdictions to utilize Tamiflu from state stockpiles that had previously been reserved for pandemic flu. This week, HHS increased access by opening up the national stockpile. CDC circulated this clinical guidance on December 14 providing information on prioritization for Tamiflu and other antivirals recommended for treating flu when Tamiflu is unavailable.

The Advisory Board Releases Consumer Tool About End-of-Life Conversations. In a new infographic, the Advisory board walks consumers through three conversations to have about end-of-life care to destigmatize talking about death and dying. Included in the conversations is a discussion about the impact of end-of-life care on quality and cost for individuals, looking at the difference between hospice and palliative care, and how patients can have more control over end-of-life decisions.

Rural Health Policy Grant Opportunity for 8 States in the Delta Region –AL, AR, IL, KY, LA, MS, MO, TN: The Health Resources and Services Administration's (HRSA) Federal Office of Rural Health Policy (FORHP) will be awarding approximately $12 million through 12 grants for the **2023 Delta States Rural Development Network Grant Program (Delta Program).** This three-year program will support integrated health care networks to achieve efficiencies; expand access to, coordinate, and improve the quality of basic health care services and associated health outcomes; and strengthen the rural health care system as a whole. HRSA intends for the Delta Program to address gaps in service, enhance systems of care, and expand capacity of the local rural health care system.

The Delta Program's goals are to:

- Expand access to care resources in the designated Mississippi Delta counties/parishes; (For a complete list of eligible counties see pages 10-12 of the Notice of Funding Opportunity.)
- Utilize evidence-based, promising practice, or value-based care models known to improve health outcomes, and enhance the delivery of health care services;
- Collaborate with network partners in the planning, delivery, and evaluation of health care services to increase access to care and reduce chronic disease; and
- Implement sustainable health care programs that improve population health, health outcomes, and demonstrate value to the local rural communities.

Eligible organizations must be domestic public or private, non-profit or for-profit entities, including faith-based, community-based, tribes and tribal organizations. The applicant organization may be in a rural or urban area, and must have demonstrated experience serving, or the capacity to serve, rural underserved populations. The applicant organization must represent a network that includes at least three or more health care provider organizations and at least 66 percent (two-thirds) of network partners must be located in a HRSA-designated rural area.
As FORHP continues to focus on sharing program outcomes, the identification and dissemination of rural evidence-based models maintains a priority. The Rural Health Information Hub (RHIhub) consists of a number of resources, including successful program models and evidence-based toolkits. FORHP will hold a webinar for applicants on **Wednesday, January 11, 2023, from 2:00 -3:30 PM ET.** Log-in information is below:

- Weblink: https://hrsa-gov.zoomgov.com/j/1617265582?pwd=bEYyOUdBV1N4ZllwMmxQa2hyL216Zz09
- Call-In Number: 833-568-8864
- Participant Code: 14527157

ACL Awards Grants to Increase Number of Older Adults who are Up to Date with Vaccines. Only 14% of eligible adults have gotten the bivalent booster. The HHS Administration for Community Living (ACL) announced on December 19 two major grant awards totally $125 million to rapidly increase the number of older adults and people with disabilities who are up to date with their COVID-19 vaccines (i.e., have had bivalent boosters). USAging was awarded $75 million to establish and leverage partnerships with various entities mostly supported by ACL. The National Council on Aging received $50 million to build and leverage partnerships with senior centers, community centers, and local community organizations. Additional information is available here. These grant programs will be available to

vaccinate and boost community residents, including many served by LeadingAge home care and other HCBS member organizations.

LeadingAge Comments on Proposed Employment and Labor Rules. LeadingAge submitted comments this month on two proposed rules relating to employment and labor matters.

As we shared previously, on December 7 LeadingAge submitted comments to the National Labor Relations Board voicing opposition to a proposed rule that would significantly expand the standard for determining whether separate entities may be considered "joint employers" of particular employees under the National Labor Relations Act. This standard is very important, because if one organization is deemed a joint employer of another organization's employees, both organizations may be required to bargain with a union seeking to represent a group of workers and each organization may be liable for unfair labor practices committed by the other. Our comments emphasized that the expansive breadth of the proposed standard would unreasonably impose risks on organizations of expanded collective bargaining obligations and of liability for unfair labor practices committed by those organizations' business partners with respect to their own employees.

On December 13 LeadingAge submitted a comment letter to the U.S. Department of Labor, Wage and Hour Division (DOL), which has proposed to revise the current framework for determining whether a worker is an employee or an independent contractor under the Fair Labor Standards Act (FLSA) – the classification that governs whether a worker is entitled to minimum wage and overtime pay. We acknowledged the importance of protecting workers from misclassification but noted that DOL must also recognize that independent contractors serve an important role and provide a clear, reasonable, consistent approach for businesses that wish to engage independent contractors.

We will continue to follow the progress of these proposed rules, which we expect to be finalized during the first quarter of 2023

Updated PRF Reporting Resources for RP4 will be available January 1. HRSA informed LeadingAge today (December 22) that it is in the process of updating reporting resources such as the critical Reporting Portal User's Guide to reflect the new reporting requirements issued in October. HRSA stated these materials will be available when the portal re-opens on January 1 for Reporting Period 4. They also said that contrary to what we were previously told, they will NOT be holding a technical assistance webinar on the new reporting requirements. Fear not, LeadingAge and experts from CLA will be reviewing the updated materials and hosting a "**Getting Ready for the New PRF and ARP Rural Reporting Requirements"** webinar on February 2 at 2 PM ET to walk aging service providers through all they need to know to successfully report in 2023. Members can register for the webinar now, here.

REMINDER: PRF Reporting Period 4 Begins January 1, LeadingAge Webinar on New Reporting Requirements on February 2. PRF and ARP Rural Payment reporting begins again January 1, 2023 for those who received these payments between July 1 and December 31, 2021. Since this is the first time for reporting on ARP Rural, HRSA has updated the reporting requirements to reflect this new reporting and the interplay with the PRF payment reporting. There are also some key changes on how much longer providers will be able to apply these funds to lost revenues. As of now, HRSA has not yet updated their Reporting Portal User's Guide nor some of their other reporting resources to reflect these changes. We have asked them when these key reporting resources will be updated and are awaiting a response. Our recommendation for now is: 1) providers who have never reported on PRF should be ready to

register in the reporting portal when it opens in the new year(Here is a link to the **Reporting Portal Registration User Guide:** https://www.hrsa.gov/sites/default/files/hrsa/provider-relief/prf-reporting-portal-registration-user-guide.pdf); 2) for returning providers should wait to begin completing their reporting until the supporting resources are up-to-date; and 3) Sign up for the February 2 LeadingAge webinar on the New PRF Reporting Requirements so they understand how to maximize use of their PRF payments under the new rules (this advice will come from Bronze Partner CLA experts). They can register for the **February 2 Webinar, "Getting Ready for the New PRF and ARP Rural Reporting Requirements"** here. For now, they should relax and enjoy the holiday. We will have the latest for them on reporting in the New Year!

U.S. Seeks to Reduce Homelessness by 25% by 2025. The U.S. Interagency Council on Homelessness released "All In: The Federal Strategic Plan to Prevent and End Homelessness" on December 19. The Plan is a multi-year roadmap "to create the systemic changes needed to end homelessness in our country." The Plan establishes an initial goal to reduce overall homelessness by 25% from the Point-in-Time Count in 2022 by 2025. To drive progress toward this ambitious goal, USICH will develop implementation work plans and begin putting the strategies in the plan into action during this fiscal year. "While housing is the solution to homelessness, the United States suffers from a severe shortage of safe, affordable, and accessible rental housing," the Plan says. With hundreds of others, LeadingAge commented on the Plan's development in December 2021, calling for a national focus on preventing and ending homelessness among older adults, which is on the rise, and improving data on older adults experiencing homelessness. "After steady declines from 2010 to 2016, homelessness in America has been rising, and more individuals are experiencing it in unsheltered settings, such as encampments. This increase stems from decades of growing economic inequality exacerbated by a global pandemic, soaring housing costs, and housing supply shortfalls," the Plan says. As part of the Plan's strategy to maximize the use of existing federal housing assistance, USICH and relevant member agencies will conduct a comprehensive review of available policy mechanisms that can increase access to federal housing programs among people experiencing or at risk of homelessness, including eligibility, admissions preferences, referral partnerships, funding incentives, and administrative fees. Read the Plan here.