



Hospice Weekly: Recap of LeadingAge Updates

January 13, 2023

Upcoming LeadingAge Coronavirus Calls. NO CALL ON MONDAY. LEADINGAGE IS CLOSED FOR MARTIN LUTHER KING DAY. On Wednesday, January 18, U.S. Department of Health and Human Services Secretary Xavier Becerra will join the 3:30 PM ET call to address all LeadingAge members, focusing mainly on the topic of bivalent boosters and the All Hands on Deck partnership between LeadingAge and HHS. Please join us to hear the most up to date briefing from Secretary Becerra. 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.

ACTION ALERT REMINDER: Tell CMS: No Staffing Mandates without Funding and a Dependable Pipeline of Applicants. CMS is expected to issue a proposed rule to establish national minimum staffing levels for nursing homes. The long-term care sector is already facing dire workforce shortages that are limiting new admissions and forcing organizations to close. We need real solutions that build domestic and international pipelines for applicants and funding increases to recruit and retain additional staff. Please join LeadingAge in sending an email to CMS Administrator Chiquita Brooks-LaSure opposing the adoption of a minimum staffing ratios mandate without the necessary workforce investments and reimbursement levels to ensure that residents and patients receive the care they deserve. [Click here to take action now!](#)

GAO Releases Report Recommending Abuse and Neglect Changes in Hospice. A new [report](#) from the Government Accountability Office (GAO) found two gaps in the requirements for hospices, compared with requirements for extended care provided in hospitals and nursing homes, for reporting and responding to abuse and neglect allegations. Currently, hospices are only required to report allegations to state agencies responsible for monitoring hospices if: 1) the alleged perpetrator is affiliated with the hospice; and 2) after the hospice has verified it as abuse or neglect based on an internal investigation that could take up to 5 days. Other settings are required to report allegations regardless of whether the alleged perpetrator is affiliated with the organization and prior to conducting their internal investigation. GAO recommended in the report that CMS require hospice care providers to report all allegations of abuse and neglect immediately to survey agencies, regardless of whether the alleged perpetrator is affiliated with the hospice. The Department of Health and Human Services neither agreed nor disagreed with GAO's recommendation.

MedPAC Unanimously Recommends Rate Cuts for SNF, HH and Hospice 2024 Rates. The Medicare Payment Advisory Commission (MedPAC) completed their recommendations to Congress on Thursday, January 12 related to post-acute care payment adequacy. Commissioners unanimously recommended that Congress reduce 2024 Medicare rates for hospice (wage adjust the aggregated rate cap and then cut it 20%), skilled nursing facilities (3% reduction), and home health agency (7%). MedPAC makes annual recommendations to Congress on payment adequacy and for nursing homes, home health and hospice, they have been recommending cuts for years that are often ignored. These are merely

recommendations and do NOT mean rate cuts are for sure on the horizon for 2024. Their recommendations are considered advice.

MedPAC analysis of Medicare Advantage Stills Shows Paid More Than Medicare FFS. MedPAC commissioners reviewed the latest staff analysis of Medicare Advantage plans in the market noting that these plans now cover 49% of beneficiaries as of yearend 2022 and that the Top 3 plans control 55% of the market. Congress requested MedPAC examine how MA and Medicare FFS spending compare and staff concluded MA plans are overpaid relative to FFS benchmarks and this overpayment is also due to coding differences and quality bonuses. The result is it is projected that 2023 MA plan bids will be roughly 83% of the FFS benchmark but their payments will be 106% of FFS when accounting for the coding differential. Commissioners repeated their recommendations to Congress to make changes to the program now to cut these rates and make policy changes to address widespread concerns about coding intensity, network adequacy, prior authorization denials. The latest report stresses the urgent need for these changes. These recommendations are not new and have gone unheeded by Congress to date. Commissioners acknowledged they must balance all concerns given the bipartisan support for the MA program and the popularity among beneficiaries who need the additional benefits MA offers. Commissioners vowed to continue their work to dig deeper into these issues including stratifying the data to better understand which plans are winners and losers currently and potential impacts of proposed cuts. This includes better understanding the differences between provider-owned/led plans vs. insurer-owned plans.

Public Health Emergency Extended. The Public Health Emergency (PHE), first declared in January 2020 and extended continually for 90 day periods since then, has been extended for another 90 days. It would have expired today, January 11, without the extension. The Administration has promised to give at least 60 days' notice if it is going to end the PHE; many observers believe this could be the final extension. The unwinding of the PHE has many implications for health care financing and delivery, including the ending of some waivers that have been in place since 2020, private insurance and government health plans taking on COVID costs for most Americans, and loss of Medicaid coverage for millions of Medicaid beneficiaries.

Testing Page Clarifications Forthcoming. NO RECURRING WEEKLY TEST ORDERS; YOU MUST REORDER TESTS AS NEEDED. LeadingAge is really excited by the response we have gotten to our testing page in partnership with HHS. Members have asked a number of questions on the process. We are working quickly to add clarifications to the page on our website as well as to get some frequently asked questions answered by HHS and then posted to the site. We will share these updates as soon as we have them. But critically, if you order tests, you are not signing up for a recurring order. You have to come back and reorder when the supply you order runs out – the interval at which you order is up to you. We will provide, as part of the FAQs, an answer on how quickly tests will ship after order, but please keep in mind you are not signing up for a recurring order.

CMS Releases Timeline for Implementing Medicare Drug Pricing Negotiation Provision of the Inflation Reduction Act. CMS [released a memo](#) with more details on the implementation steps for the Medicare Drug Price Negotiation Program, laying out the opportunities for engagement and public feedback throughout the implementation process. The memo details multiple comment opportunities for members of the public, people with Medicare and consumer advocates, pharmaceutical manufacturers, Medicare Advantage and Part D plans, health care providers and pharmacies, and other interested

parties. LeadingAge recently attended a meeting with Meena Seshamani, Director of the Center for Medicare and Jon Blum, Deputy Administrator at CMS regarding the implementation of the Part D provisions of the Inflation Reduction Act. LeadingAge noted the need for as much education as possible for aging services providers on the impacts of the law on them and the ability to continue to engage in dialogue as the implementation continues. LeadingAge will continue to monitor this issue.

CMS Releases Third Edition QRP COVID-19 Public Reporting Tip Sheets for All Post-Acute Settings. The purpose of the Third Edition Quality Reporting Program (QRP) COVID-19 Public Reporting (PR) Tip Sheets are to help providers understand CMS' public reporting approach to the HH, IRF, LTCH, and SNF QRPs to account for CMS quality data submissions that were either optional or excepted from public reporting due to the COVID-19 public health emergency. The impacts on CMS' Care Compare website refreshes are also outlined. These tip sheets serve as companion documents to the first and second edition QRP COVID-19 PR Tip Sheets published in 2020 and 2022. Each setting-specific tip sheet is available in the **Downloads** section of the [HH QRP](#), [IRF QRP](#), [LTCH QRP](#), and [SNF QRP](#) Training pages.

CMS All Stakeholder Call on January 24. CMS invites all interested stakeholders to a call on January 24 at 1:00 PM ET to hear Administrator Chiquita Brooks-LaSure and her leadership team highlight key 2022 accomplishments and discuss 2023 priorities to advance the CMS Strategic Plan. This call covers all CMS programs for all beneficiaries – it is not specifically a long-term care or post-acute care call. To register, click [here](#).

Hospice CAHPS CY2023 Participation Exemption Form Now Available. The Participation Exemption for Size Form for the calendar year (CY) 2023 CAHPS Hospice Survey data collection and reporting requirements is [available](#) to complete and submit online. Hospices that served fewer than 50 survey-eligible decedents/caregivers in CY 2022 (January 1, 2022 through December 31, 2022 [or from assignment of CCN]) can apply for an exemption from participation in the CAHPS Hospice Survey for CY 2023. The Participation Exemption for Size Form must be completed and submitted online until December 31, 2023. Exemptions on the basis of size are active for one year only. If a hospice continues to meet the eligibility requirements for this exemption in subsequent years, the organization will need to again request the exemption.

Staffing Models Survey. In the heat of the workforce crisis, LeadingAge is [exploring new and non-traditional staffing models](#) that providers can implement to increase flexibility for staff and better attract new applicants. We are asking members to complete this [short 2-minute survey](#) to share how your organization is approaching staffing. We are interested in any staffing model that has been effective for your organization, effective in recruitment or retention efforts, or offers flexibility for your team members. Thank you so much for taking a moment to complete this survey! With additional questions, reach out to [Jenna Kellerman](#), Director of Workforce Strategy and Development, LeadingAge.

NIH Launches Home Test to Treat Pilot. The National Institutes of Health, in partnership with the HHS Administration for Strategic Preparedness and Response (ASPR), launched the "Home Test to Treat" program on January 5. This community health intervention will provide free COVID-19 testing, telehealth sessions, and at home treatment. The program will launch in Berks County, Pennsylvania, where up to 8,000 eligible residents are expected to participate in the program. Ultimately, the Home Test to Treat program will serve around 100,000 people through collaborations with local health departments over the next year. More information can be found [here](#).

2023 LeadingAge Leadership Summit | April 16-19. Make plans to join us in Washington, DC from April 16-19. The [LeadingAge Leadership Summit](#) is a must-attend gathering for a range of leaders in aging services. You'll have access to robust opportunities to gain insight, explore ideas, collaborate with your peers, and influence the nation's decision makers. Together, we're defining the future of aging services.

Evidence on impact of bivalent boosters in younger people not as strong as the elderly according to vaccine expert. Dr Paul Offit, director of the Vaccine Education Center at the Children's Hospital of Pennsylvania, a member of the Vaccine-Related Biologicals Approval Committee at the FDA wrote an opinion piece in the New England Journal of Medicine says that policymakers should reconsider bivalent booster recommendations for younger people. He reiterates the importance of the bivalent boosters for older adults and those who are immunocompromised. The NEJM op-ed can be found [here](#) and a Time Magazine piece that goes into more details on his op-ed can be found [here](#).

Emergency Preparedness Resources. The Assistant Secretary for Preparedness and Response (ASPR) has shared new emergency preparedness resources. The [On-Campus Hospital Armed Assailant Planning Considerations](#) is written for hospitals but could be helpful for emergency planning in nursing homes, life plan communities, and assisted living. [Partnering with the Healthcare Supply Chain During Disasters](#) highlights challenges and vulnerabilities in the healthcare supply chain and offers strategies to plan for and mitigate supply chain issues during disaster. Finally, the December issue of The Exchange focuses on [Decedent Management During Disasters](#). Articles contain considerations for ensuring a respectful, dignified, and efficient processing in managing fatalities during disaster, including considerations for mass fatalities and fatalities occurring during surges, remains management during surges, family notifications during ongoing disasters, and more.

Testing Page Clarifications Forthcoming. NO RECURRING WEEKLY TEST ORDERS; YOU MUST REORDER TESTS AS NEEDED. LeadingAge is really excited by the response we have gotten to our testing page in partnership with HHS. Members have asked a number of questions on the process. We are working quickly to add clarifications to the page on our website as well as to get some frequently asked questions answered by HHS and then posted to the site. We will share these updates as soon as we have them.

But critically, if you order tests, you are not signing up for a recurring order. You have to come back and reorder when the supply you order runs out – the interval at which you order is up to you. We will provide, as part of the FAQs, an answer on how quickly tests will ship after order, but please keep in mind you are not signing up for a recurring order.

New House Committee on Appropriations Chairwoman. On January 10, the House Republican Conference officially named Representative Kay Granger (R-TX), as Chairwoman of the House Appropriations Committee for the 118th Congress. "Serving on the Appropriations Committee has been one of the greatest honors of my time in Congress. For over two decades, I've worked to ensure that taxpayer money is used responsibly and that our military has the resources it needs to protect the American people. My colleagues put their trust in me as ranking member, and I am deeply humbled to serve as the first Republican woman to lead the Committee as chair. As the committee responsible for federal funding, it's our responsibility to reduce spending where we can and ensure that we prioritize resources on national security. As the former chair of the defense subcommittee and as someone who has thousands of service members and hundreds of defense contractors in my district, I know how important it is that we have a strong defense," Chairwoman Granger said in a [statement](#). The House is

organizing and naming its committee leadership; the Senate is expected to follow suit when it returns from a state work period the week of January 23.

How New House Rules Could Impact Federal Spending. On January 9, the House of Representatives adopted its rules package for the 118th session of Congress. The rules span a range of issues; the following new rules impact how Congress works on federal spending and annual appropriations. The new rules allow members to block increases in appropriations for any program not already authorized by Congress (note: Congressional authorization for most HUD programs expired many years ago); the new rules require any mandatory spending increases to be paid for with spending cuts through a “cut-as-you-go” rule, instead of the previous “pay-as-you-go” rule (note: LeadingAge’s request to increase the Low Income Housing Tax Credit would be impacted by this rule); the new rules require a three-fifths vote of the House to increase income taxes (as opposed to a simple majority); and, the new rules eliminate a practice that automatically suspends the debt limit when the House adopts a budget and now requires the House to hold a specific vote on the debt ceiling (note: media suggest that the new House majority will raise the debt ceiling only hand-in-hand with “commensurate fiscal reforms”). There are many undocumented reports of other agreements secured between the new House Speaker and his party, including a supposed agreement that House appropriations bills will cap 2024 discretionary spending at fiscal year 2022 levels. “By boldly shifting away from the centralized legislating of the past and returning to regular order that empower Members, committees, and the public, House Republicans are keeping our commitment to make Congress more open, more accountable, and more responsive to the needs of the American people,” [House Speaker Kevin McCarthy \(R-CA\)](#) said in a statement upon the passage of the new rules. See the [new rules](#) and a [section-by-section analysis of the new rules](#).

Supreme Court Declines Look at 2019 Public Charge Rule. In what will likely be the final act of the Trump Administration’s attempt to change the public charge rule, the U.S. Supreme Court declined to review whether states could reopen litigation challenges to the 2019 public charge rule on January 10. LeadingAge and other groups opposed the 2019 rule out of concern it would keep eligible households away from needed social services programs like affordable housing. Some states sought to resurrect the 2019 rule, which was invalidated by the Biden Administration. With the Supreme Court [declining](#) to review those states’ requests on January 9, the 2019 rule has run its course.

Representative Jason Smith (R-MO) Recommended as Chair of the Ways and Means Committee. The Republican House Steering Committee met to vote on contested committee chairmanships on January 9. The most hotly contested chair, for the House Ways and Means Committee, went to Jason Smith (R-MO). He beat out Representatives Vern Buchanan (R-FL) and Adrian Smith (R-NE). Also decided was the next chair of the Committee on Homeland Security, whose new Chair will be Mark Greene (R-TN). LeadingAge is still waiting to hear on the vote for the Chair of Education and Workforce (formerly Education and Labor). These are recommendations from the Steering Committee and need to be voted on by the full House Republican Conference (as do the chairs that were uncontested). LeadingAge will continue to monitor