



## Nursing Home Weekly: Recap of LeadingAge Updates

March 10, 2023

**Upcoming LeadingAge Policy Update Calls. All calls are at 3:30 PM ET.** We are finalizing arrangements for **Monday, March 13**. Among other topics the call updates will cover our ongoing conversations with CDC and details on the President's proposed FY 2024 budget that have implications for aging services providers. On **Wednesday, March 15**, Dr. Natalie Festa, Clinical Fellow, Yale University School of Medicine, will join us to talk about her research on climate threats and emergency preparedness in nursing homes. 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: Tell Congress to Eliminate the 3-Day Hospital Stay Requirement.** Federal law requires an inpatient hospital stay for three consecutive days before Medicare will cover a patient's care in a Skilled Nursing Facility (SNF), a requirement that has become antiquated and onerous in the nearly 60 years since Medicare was enacted. The 3-day qualifying hospital stay requirement was waived in 2020 during the pandemic. During the waiver, Medicare beneficiaries who otherwise qualified for SNF care received it regardless of spending any specific amount of time in the hospital. With the public health emergency set to end on May 11, now is the time to take legislative action to permanently fix this unnecessary requirement. [Write to your member of Congress today!](#)

**Calling all Nursing Home Leaders!** On March 24, 2pm ET, the Moving Forward Coalition is hoping to hear from providers to test, promote and advocate for its package of quality improvement plans. At this meeting, join Coalition leaders to brainstorm how best to make Moving Forward's Action Plans and initiatives accessible to all nursing homes and their communities. The March 24 session will start with an overview of the Coalition's mission, vision, progress, and work plan and move to a discussion with nursing home providers on these three questions: what would your team need to test a Moving Forward action plan?; how can the Coalition engage more and more diverse nursing homes in its efforts?; and, how can the Coalition work with nursing home providers to build an advocacy message that charts an accessible and feasible roadmap to quality improvement? Register [here](#).

**President Releases 2024 Budget.** On March 9 the White House released and sent to Congress its [FY 2024 budget](#) summary, accompanied by a series of fact sheets. Program and funding details will be released on Monday, March 13. The President's budget is never enacted as is by Congress, but it is considered a good indication of the Administration's vision and policy direction/priorities. The proposed budget preserves Medicare's solvency by raising taxes for high income individuals. Several provisions in the budget indicate support for aging services providers and the people who use aging services, such as increased funding for more HUD Section 202 homes and an expansion of funding for Medicaid home and community-based services. Elements appear to support expansion of HRSA training programs for certain aging services professionals. Some relevant highlights include:

- **Housing.** The budget request seeks to increase funding for key affordable housing programs, including new Section 202 Supportive Housing for the Elderly homes, new Project-Based Rental Assistance contracts, new vouchers, and additional HOME funding compared to FY22 funding levels. The request also seeks to almost triple tax expenditures for the Low-Income

Housing Tax Credit and makes improvements to this program, including addressing right of first refusal issues and reducing the private activity bond financing requirement from 50 to 25%.

- **Home and Community-Based Services.** The President's budget includes an ongoing commitment to expanding home and community-based services by proposing an \$150 billion investment over 10 years with specific mention of supporting the workforce. We are pleased that the President is continuing his commitment to expanding access to these vital services which include home care, assisted living, adult day, and other vital services that allow those who choose to remain in the community. This proposal mirrors the Better Care Better Jobs Act that was reintroduced in the House and Senate last month; take action to support the bill [here](#).
  - **Nursing Homes.** The President requests \$566 million for the discretionary CMS Survey and Certification Program, nearly a 40 percent increase above enacted funding, for nursing homes and other facilities' health and safety inspection surveys. Although additional funding is allocated for survey and certification, there is no information included in the budget summary on additional funding for nursing homes to comply with survey requirements or for other uses. The budget summary also noted a robust agenda to "improve the safety and quality of nursing home care, including efforts to improve ownership transparency; address the backlog of complaint surveys and provide adequate funding to conduct nursing home inspections; increase the inspection of low-performing nursing homes via the special focus facilities program; and expand financial penalties for substandard facilities," but provided no additional information or budget marks for these activities.
  - **Workforce.** The budget summary indicates an awareness of the healthcare workforce crisis and includes some anticipated requests for increases in some existing programs. Specifically, the President requests \$49.5 million more than the \$350 million enacted last year for nursing education programs. A similar increase is also included to expand Registered Apprenticeship opportunities. Family caregiver programs are targeted for relatively small increases.
  - **Immigration.** The budget requests \$7.3 billion for the Office of Refugee Resettlement (ORR) to help rebuild the Nation's refugee resettlement infrastructure and support the resettling of up to 125,000 refugees in 2024. Further, it includes a request for \$865 million for United States Citizenship and Immigration Services to process an increasing asylum caseload, reduce the historically high immigration benefit request backlog, support the Citizenship and Integration Grant Program, and improve refugee processing to advance the Administration's goal of admitting 125,000 refugees.
  - **Department of Labor.** The President calls on Congress to require all employers to provide paid sick days. The proposed budget would provide resources to administer and support wage and benefit requirements, address the classification of independent contractors, and increase penalties for labor law violations. The budget would expand access to paid Family and Medical Leave through a program administered by the Social Security Administration.
- Again, this is just the first move in a long and complex set of discussions and negotiations that will determine the actual budget for the federal government next fiscal year.**

**Employee Retention Credit: Resources from FORVIS.** Our partners at FORVIS have shared a couple very helpful resources related to the ERC: a free [webinar](#) on applying the ERC to LTC settings, and an [article](#) on how to satisfy the IRS requirements for documentation and substantiation. The webinar's relevant

highlights for members include how to evaluate whether a government order applies; specific examples of partial suspension of business operations (e.g., CMS orders restricting visitors, third party service providers, and occupancy;) and how to show a measurable decline that satisfies “nominal impact,” such as a decline in census or patient days. Additionally, the webinar talks about how to claim the PPP and ERC correctly for the same eligible quarters, and the importance of including healthcare benefits paid into the wage calculations. The article, entitled “Checking ERC Claims Before the IRS Does,” offers helpful, concrete preparatory steps providers can take ahead of an IRS audit, what the IRS is looking for (eligibility, documentation of substantiation and corrections to adjusted income tax returns,) and the kind of documentation the IRS looks for in an audit (e.g., payroll journals, amount of employee wages paid, evidence of significant decline in gross receipts, etc.) and what to do if an employer has already filed and needs to amend a return. Both resources offer members additional insights into the ERC application process for LTC providers and answer key questions members pose frequently about the IRS and the risk of audit. FORVIS is a national accounting firm that specializes in healthcare services accounting and is a Bronze partner of LeadingAge.

**LeadingAge Supports Permanent Approval of Paxlovid.** FDA’s Antimicrobial Drugs Advisory Committee asked for comments on Pfizer’s application to approve Paxlovid as a new drug. It is currently approved for use under the PHE’s Emergency Use Authority. FDA particularly asked LeadingAge to comment because officials there wanted the Committee to hear about the experiences of providers. LeadingAge submitted comments on March 9 supporting the application and citing examples provided by members of our Clinical Advisory Group. We will provide a copy of the final comments in tomorrow’s nightly update.

**COVID Test Kits Still Available For Aging Services Providers – Will Continue After May 11 End of PHE.** Since February, LeadingAge providers across the continuum of care have been ordering free COVID-19 test kits from LeadingAge, through an arrangement with the U.S. Department of Health and Human Services. More information and the easy order form are located [here](#). LeadingAge Members have asked if tests will still be available after the end of the Public Health Emergency on May 11. The answer is YES. HHS and White House officials have clearly stated that arrangements related to tests, vaccines, and treatments are separate from the timing of the end of the PHE. A separate portal, arranged in coordination with LeadingAge, is available for HUD 202 providers, [here](#).

**New Toolkit Details Ways to Control Group A *Streptococcus* in Long-Term Care Facilities.** CDC has released [new tools to guide effective investigations](#) into group A *Streptococcus* (GAS) infections in long-term care communities. Targeted to public health departments and long-term care communities, including skilled nursing and rehabilitation communities, the toolkit encourages an investigation into even a single case of invasive GAS infection. The toolkit also offers strategies to ramp up the response if additional cases occur.