Nursing Home Weekly: Recap of LeadingAge Updates

March 17, 2013

Upcoming LeadingAge Policy Update Calls. All calls are at 3:30 PM ET. **How did REITs affect staffing during the pandemic? Not so fast! You may be surprised that it's not a completely straightforward answer.** On **Monday, March 20**, **David Stevenson**, Professor of Health Policy in the Department of Health Policy at Vanderbilt University School of Medicine and **Tyler Brau,** Assistant Professor of Population Health Sciences, Population Health Sciences at the Weill Cornell Medical College join us to talk about the role of Real Estate Investment Trusts in Staffing US Nursing Homes. They were two of the coauthors on a study published in January in the journal ***Health Affairs***. The coauthors created a novel database of REIT investments in the U.S. and used it to study nursing staffing (RN, LPN, and CNA) in nursing homes that did and did not receive REIT investment.

Calling all Thomas Edisons and Steve Jobs wannabes! Join us on **Wednesday, March 22** as we chat with **Don Blose, CEO of Spanish Cove in Yukon, Oklahoma** about the Never Too Old (N2O) program his organization offers interested residents. Initially started in 2019 as a brain health program that also creates solutions to help older people stay independent and solve problems that create barriers to independence, the program has evolved into a twice monthly gathering of residents who talk about some of the problems of aging they are experiencing and brainstorm solutions ranging from "way out of the box" to so practical it's hard to imagine why no one made this before. The participants – the innovators – design and develop prototypes, test them, and, if they are successful, seek patents and trademarks.

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.

Medicare Advantage Must Change. LeadingAge Publishes Comprehensive Recommendations. As Medicare Advantage enrollment has grown, the challenges faced by providers and beneficiaries have also mounted. Without changes to current MA policies, there will be impacts across the health care system. Providers are at a breaking point. A new LeadingAge white paper, "Fulfilling the Promise: Medicare Advantage," is a culmination of comments and concerns LeadingAge has raised with CMS and policymakers interwoven with member examples and detailed actions needed to change these current trends. This important advocacy piece gives voice to the financial and ethical struggles providers face daily when caring for MA enrollees and the barriers MA plans construct to limit enrollees' access to care. To read the full paper, click here, and a LeadingAge article is here, and our press release can be found here.

"It's Getting Scary in Aging Services;" Results of the LeadingAge Member Snap Poll and a Blog Post. Close to 900 LeadingAge members responded to LeadingAge's informal snap poll on workforce challenges, conducted between the end of February and the second week of March. Almost all nursing home respondents – 92% - and 70% of assisted living provider respondents said their workforce shortage is significant or severe. Here are a brief article on the Toplines from the survey results and a blog post on the results and policy solutions for which we are advocating. The survey results give us

more power to reflect member input and first-hand experience, significantly increasing the impact of our advocacy with policy makers.

Good news – a LeadingAge win. ERC and Medicaid Cost Reports and Rates. You may recall that some states had indicated that they would be treating Employee Retention Credit (ERC) funds like tax credits for the purposes of Medicaid cost reports, and this had the potential to reduce future Medicaid nursing home rates. LeadingAge along with AHCA met with CMS back in February to share our concerns with these practices and request CMS to take a position that they should be treated like other relief funds (one-time revenues). At that time, CMS asked for time to consider the issue. We have heard that CMS will be notifying states this week that the ERC funds should be treated like other COVID relief funds (e.g., PPP, PRF) and NOT like a tax credit on Medicaid cost reports.

KFF Releases State-by-State Analysis of Medicaid Unwinding Activities. On March 16, the Kaiser Family Foundation (KFF) released a report outlining activities and timelines states will be undertaking during the upcoming 15 months. During the COVID-19 pandemic, states were prohibited from disenrolling Medicaid enrollees in exchange for acceptance of additional federal financial support for states' Medicaid programs. Through the three-year prohibition from disenrollments, Medicaid roles swelled by approximately 30%. Reminder that all enrollees historically underwent annual eligibility redeterminations for Medicaid; this is the restart of that process. For some individuals dually eligible for Medicare and Medicaid, loss of Medicaid coverage may be costly as they lose access to copay and cost sharing programs. Early and often communication about the threats of losing Medicaid will help people understand messages from trusted sources and be more likely to pay adequate attention to mail from their states' Medicaid agency. Georgia (ggoodman@leadingage.org) is happy to answer questions on unwinding. Additional resources on unwinding are available here.

Committee Recommends Full approval of Paxlovid to FDA. On March 16, following a meeting of the Antimicrobial Drugs Advisory Committee, the committee recommended the FDA approve Paxlovid. The drug has been available under an emergency use authorization for over a year. LeadingAge submitted comments to the committee and FDA in support of approval, highlighting provider experiences and ongoing needs for safe and effective COVID-19 mitigations.

The WHO's going Greek. The World Health Organization (WHO) won't name new subvariants of Omicron that it doesn't think pose a significant public health threat, while those that it does will get their own Greek letter name. So there may be a Sigma or Upsilon variant to come, but not another XBB.1.5, the main variant in the U.S. right now. The WHO stressed that the new classification system doesn't imply that the circulation of Omicron strains no longer poses a public health threat. Read more here.

REMINDERS – Provider Relief Reporting Deadline – March 31. Members are reminded that they must submit their Reporting Period 4 Provider Relief Fund reports if they received PRF payments between July 1 – December 31, 2021. Providers who fail to report will be required to return funds received. LeadingAge hosted a webinar with PRF experts from CLA on the updated reporting process in February and the recording of the webinar is available on the Learning Hub, here.

HRSA Continues to Send PRF Repayment Notices. These notices are being sent to non-compliant providers via certified mail and email. This is the first step in debt collection. Providers who believe that they have received a repayment notice an error (e.g., they are not required to return or submitted all

required PRF reports) can seek a Decision Review. Providers only have 60 days from receipt of the notice to submit a decision review request. This is the final appeal process for all PRF decisions so it is critical that providers take action. More details on the notices and decision review can be found in this LeadingAge article.

MACPAC Releases March 2023 Report to Congress The Medicaid and CHIP Payment Access Commission (MACPAC) serves as a non-partisan advisory and analytic agency to Congress and members of the presidential administration. Each year, the commission is statutorily required to submit reports to congress in March and June. The March report is split into four sections. This report's executive summary states that the four sections recommendations can be characterized by: "(1) improving the collection and reporting of race and ethnicity data in Medicaid, (2) increasing the transparency and improving the collection of nursing facility payment data, (3) giving state Medicaid programs greater flexibility in following Medicare drug coverage decisions, and (4) our statutorily required review of hospital payment policy for the nation's safety-net hospitals." LeadingAge reviewed and provided feedback on section 2. Read the entire report here.

FDA Guidance on PHE Ending. The Food and Drug Administration (FDA) published notice in the Federal Register on March 13 with updates to guidance documents issued during the public health emergency (PHE). Specifically, the FDA outlines which guidance documents will end with the PHE and which will be extended for a limited amount of time. FDA states, "Importantly, the ending of the PHE . . .will not impact FDA's ability to authorize devices (including tests), treatments or vaccines for emergency use. Existing emergency use authorizations (EUAs) for products will remain in effect and the agency may continue to issue new EUAs going forward when criteria for issuance are met." Read more here.

Vulnerable Populations and Emergency Planning. CDC's EPIC Exchange released on March 14 focuses on disparities and vulnerabilities during disaster. Among the populations identified as facing increased risk are people with disabilities or mobility challenges, people facing homelessness, and LGBTQIA+. While many aging services providers likely consider people with disabilities or mobility challenges in emergency planning, it is important to review your emergency plans to ensure accommodation of special needs of each of these identified populations. LeadingAge was recently notified of surveyor attentiveness to general considerations for transgender individuals in at least one state and it is likely more will follow. We encourage providers to review all policies and operations to ensure proper identification and accommodation of the needs of your unique community populations.

Free Webinar: Understanding Special Needs Plans in Long-Term Care. The Advancing Excellence in Long-Term Care Collaborative, of which LeadingAge is a member, is hosting a Spotlight Series in 2023 to cover various topics of interest to long-term care providers. A session will be held on March 29 from 3:00 – 4:00 PM ET entitled "Understanding Special Needs Plans in Long-Term Care." Participants will review background on Medicare Advantage in long-term care, learn about Special Needs Plans in this setting, and hear success stories from the pandemic. Register here for this free webinar.

Could State-Based LTC Insurance Work? The Long-Term Care Discussion Group's monthly virtual meeting, set for **Thursday, March 30 from 2:00 – 3:00 PM ET** will focus on "Exploring Stakeholder Perspectives on State-Based Catastrophic Long-Term Care Coverage." Presenters John Cutler and John O'Leary will talk about their Society of Actuaries-sponsored study of various stakeholders' views on backend (or catastrophic) coverage. The discussion will cover findings in the report, highlighting support and challenges for such a program, support (or not) for a mandatory program, concerns about the

viability of a tax increase to support the program, and recognition of the value of working with existing programs (Medicaid and private LTC insurance). One take home in this report is that there's a lot of support for a public LTC benefit, but little appetite to increase payroll deductions to pay for it.

LeadingAge Submits Comments on CMS Interoperability and Prior Authorization Proposed Rule. LeadingAge continued to advocate for improvements in the prior authorization processes used by MA plans including shortening the time plans have to make those determinations. In addition, LeadingAge offered its support to CMS proposals that would give providers access to patient data via an Application Programming Interface (API), which would allow the plan data source to talk to the provider's EHR. LeadingAge argued that CMS should allow all providers who serve a plan's enrollee to access this data not just those who contract with the plan as an in-network provider. This proposed rule also covers a framework for establishing a Patient API and a Payer-to-Payer API to share patient data. Many of the proposals for data sharing apply to both Medicare and Medicaid FFS as well as Medicare Advantage and Medicaid managed care. To view the full comment letter on this proposed rule, click here.

AHRQ/HHS Researchers Find Racial Disparities in Reported Pressure Ulcers and Falls in Nursing Homes; Major Increases in Medication Management in Home Health. The HHS Agency for Healthcare Research and Quality produces an annual mandated report to Congress on National Healthcare Quality and Disparities. In the recently released report for this year, which covers more than 440 measures across all healthcare settings, the research team found that Black and American Indian/Alaska Native (AI/AN) individuals experienced a higher risk of having pressure ulcers in nursing homes compared to other groups. From 2013 to 2019, the percentage of nursing home residents who experienced a pressure ulcer declined (improved) overall for all racial/ethnic groups except AI/AN and Native Hawaiian/Pacific Islander. Male nursing home residents were more likely to experience pressure ulcers during the same period, compared to female residents. The report also shows the percentage of nursing home residents who experienced falls, with Black residents less than half as likely to have experienced a fall with major injury compared to White residents.

The percentage of home health patients with improved management of oral medications increased significantly between 2013 and 2020, with 77% of home health patients taking oral medications having improved their medication management during an episode of care. Black patients were 10% more likely to have been asked about their medications at the beginning of home health care than White patients.