

Medicaid HCBS and PACE 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.

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.**

Aging Committee Hearing, Highlights Direct Care Workers Shortage, and the Chairman’s New Bill to Address Medicaid HCBS and Support for Caregivers. On March 9, the Senate Special Committee on Aging held a hearing, “Uplifting Families, Workers, and Older Adults: Supporting Communities of Care” which examined the economic benefit of investing in Medicaid home and community-based services, improving the direct care workers shortage and the caregiver crisis. During the hearing, Committee on Aging Chairman Bob Casey (D-PA), unveiled a new bill, the *HCBS Access Act*, which includes an expansion of home-and-community based (HCBS) services sorely needed to ensure that older adults can receive services across the care continuum. It also increases the Medicaid Federal Medical Assistance Percentage (FMAP) for HCBS to 100%. To receive the enhanced match, states must enhance, expand, or strengthen HCBS services. Additionally, it provides \$2 million dollars a year for 5 years, for the Administration for Community Living to establish a Technical Assistance Center for building the direct care workforce, and allocates \$1 billion dollars, over five years, for Direct Care Workforce Competitive grants. An article will be written to share additional details on the hearing.

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](#).

CMS Hosts Webinar for States on State Plan Options for Medicaid HCBS Through 1915(i). During a March 8 webinar, CMS offered an overview of 1915(i) state plan options for states looking to expand access to home and community-based services. Presenters reviewed [the slides](#) and answered questions about target populations, caps on enrollees, and federal participation. Of note, these programs cannot limit enrollment based on geography, available slots, or institute waiting lists and needs-based population target criteria must be less stringent than the nursing facility clinical eligibility requirement for 1915(c) waivers. CMS agreed that criteria could be established to target individuals with dementia diagnoses for service through the 1915(i) option. If your state is considering pursuit of a 1915(i) program, Georgia (ggoodman@leadingage.org) would like to learn about your state's plan and target populations.

CMS Clarifies Third Party Liability Responsibilities. In a State Medicaid Director Letter dated March 8, 2023, CMS provides guidance to state Medicaid agencies on two new provisions. The first, per the Consolidated Appropriations Act, 2022, requires states to pass legislation disallowing some denials; the second, per a U.S. Supreme Court decision, permits states to create liens on injury settlements. Read the SMDL [here](#).

LeadingAge Supports Approval of Paxlovid. Through a letter submitted to the FDA's Antimicrobial Drugs Advisory Committee, LeadingAge outlined the need for approval of Paxlovid and ongoing access to interventions and therapeutics to combat COVID-19. We highlighted provider experience and shared insights from our Clinical Advisory Group. Review the letter [here](#).