



Nursing Home Weekly: Recap of LeadingAge Updates

April 7, 2023

Upcoming LeadingAge Policy Updates. All calls are at 3:30 PM ET. Workforce/recruitment/pipelines and business decision making about affiliations – all on upcoming calls. On **Monday, April 10**, Emily Dieppa (she/her) Vice President of Workforce Innovations at PHI will join us to discuss effective recruitment strategies to build the workforce pipeline and to promote careers in aging. On **Wednesday, April 12** Adam Berman, President and CEO of Legacy Lifecare will talk about the Legacy project. Its mission is to help small-to-mid-sized, values-driven senior care organizations navigate the complexities of modern healthcare through the provision of consulting, affiliation, and management services. You can also find previous call recordings of every 3:30 LeadingAge call [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.

CMS SNF Open Door Forum April 13: CMS will host the next SNF Open Door Forum on April 13 at 2pm ET. Agenda items include MDS updates, MDS transition to iQIES, PBJ update, and an introduction to the Center for Excellence for Behavioral Health in Nursing Facilities. No registration is required. To access the call Dial: 1-888-455-1397 & Conference Passcode: 4325849.

SNF PPS Rule Released – Staffing Standards Not Included: The FY 2024 SNF PPS proposed rule was released on April 4. The rule proposes a 3.7% Medicare payment update for FY 2024, reflective of the second-year phase-in of the PDPM parity adjustment. CMS proposes 3 new measures for SNF QRP over the next 3 years with an additional 3 measures being removed and 1 measure being modified, and an increase to data completion thresholds for MDS data. CMS proposes 4 new measures for SNF VBP over the next 3 years plus changes to SNF VBP payback to include increased payback percentage and health equity adjustments, and a change to enforcement requirements that would eliminate the requirement for nursing homes to actively waive their rights to a hearing related to civil monetary penalties. The highly-anticipated staffing standards were not included in this rule and continue to be expected sometime this spring. LeadingAge will have a more detailed analysis of the SNF PPS rule in the coming days. The rule will be published in the [federal register](#) on April 10. Comments on the rule are due June 5. Read the CMS Fact Sheet [here](#).

CMS Releases More Detail on VBID Extension. CMS released a new [Medicare Advantage Value-Based Insurance Design Model Extension Fact Sheet](#). Last month, CMS announced that the VBID model would be extended from 2025 to 2030. With regards to the VBID Hospice Benefit Component, CMS plans two updates:

- Typically, Medicare enrollees who choose hospice services give up their right to receive health care services that are “curative.” Under the model extension, beginning in 2025, CMS will more closely align flexibilities for concurrent care with those offered in other CMS Innovation Center models. By offering greater flexibilities for MAOs to partner with in-network providers to deliver innovation, this will allow patients to receive more person-centered care at end of life.
- When the Hospice Benefit Component was introduced, CMS required MAOs to pay for all out-of-network hospice services for their enrollees in the model because MAOs did not yet

have any relationships with hospice providers. Since then, participating MAOs have developed networks of hospices that can deliver timely, comprehensive and high-quality services aligned with enrollee preferences in a culturally-sensitive and equitable fashion. Under the model extension, beginning in 2026, participating MAOs will have more flexibility to require their enrollees to only receive hospice services from hospice providers in their network, as long as the MAOs meet CMS's qualitative and quantitative network adequacy requirements. This change is expected to help ensure that model enrollees have greater care continuity and receive higher quality hospice care.

Last Day to Submit MDS Through QIES is April 13: For several weeks, we have provided updates and reminders about the upcoming transition of the MDS to iQIES with the accompanying submission blackout from April 13 – 17. On April 3, we erroneously reported that this blackout would begin April 14 due to an email communication from CMS announcing an iQIES blackout beginning April 14. We apologize for the error. Timely MDS submission is still required during this time. The important dates and information are as follows:

- April 13 at 8pm ET: MDS submission through QIES is no longer available. PBJ and ePOC continue in QIES.
- April 14 at 8pm ET: iQIES goes offline.
- April 17 at 8am ET: MDS submission through iQIES begins. Each individual nursing home must have a designated Provider Security Official in order to submit through iQIES.

Medicaid Advisory Group to Discuss HCBS, Duals, and Other Issues of Interest to LeadingAge

Members. The Medicaid and CHIP Payment and Access Commission will host its April meeting on Thursday, April 13 and Friday, April 14. Interested individuals can register [here](#) for a zoom link to attend the meeting. The day and a half long [agenda](#) includes a few topics that will interest members of LeadingAge:

- Review of a chapter on beneficiaries who are dually eligible for Medicaid and Medicare for the June Report to Congress.
- An update on unwinding the continuous coverage requirements.
- Review of a chapter on Medicaid home and community-based services for the June Report to Congress.

Final CY2024 MA, Part D and PACE Policy Rule Includes Key Provisions and Clarifications: CMS's *proposed* rule changing policies for MA, Part D and PACE was large and wide-ranging, and this may be why CMS will finalize these provisions in multiple phases. The first final MA policy [rule](#), released April 5, contains provisions on utilization management/ prior authorization, ensuring plans cover traditional Medicare A and B benefits, many of the changes placing limits on how plans market to beneficiaries, MA plan star ratings, Health Equity, and behavioral health access.

Of greatest interest to members are the sections that focus on ensuring beneficiaries access to basic Medicare A and B benefits through their MA plans and changes to MA plan prior authorization practices. CMS codifies and clarifies that MA plans cannot be more restrictive in covering traditional Medicare benefits than Medicare FFS. However, the rule preserves the plans' right to waive the 3-day stay. CMS will permit plans to use their own internal criteria for making coverage decisions but only where the

criteria are not “fully established” and CMS defines those circumstances and the type of evidence that a plan must use for those determinations. CMS also placed limits on when plans can use algorithms such as NaviHealth’s nhPredict.

CMS importantly finalized its changes to prior authorizations (PAs) to streamline the process, ensure continuity of care when the enrollee changes plans and clarify the duration for which PAs must apply. Under the final rule, prior authorizations:

- Can only be used for confirming patient diagnosis and/or medical necessity of the services.
- Are valid for a “course of treatment” and CMS further clarified this means, “as long as medically reasonable and necessary to avoid disruptions in care in accordance with applicable coverage criteria, the patient’s medical history and the treating provider’s recommendation.”

LeadingAge asked for further clarification on the “course of treatment” definition to ensure its applicability to services provided by SNFs and Home Health Agencies. The final language could significantly impact the number of reauthorizations PAC providers will need to submit for an episode of care and instead authorize a plan of care.

The Final Rule also finalized five of the previously proposed sections for PACE programs with little amendment including codifying changes to the initial contract year (§ 460.6), imposition of CMPs (§ 460.40), requirements for contracted specialists (§ 460.70), allowance of oral service determination request extensions (§ 460.121), and maintenance of records (§§ 460.200 and 460.210).

The rule is effective June 5, 2023 with most provisions affecting MA plan practices in CY2024 and beyond. LeadingAge staff will finish reviewing the 700+ page rule in detail and provide a more detailed analysis in the coming days. The Fact Sheet can be found [here](#).

Need Some Support and TA on Behavioral Health Issues? [The Center of Excellence for Behavioral Health in Nursing Facilities \(COE-NF\)](#) provides mental health and substance use training, customized technical assistance and resources to certified Medicare and Medicaid nursing facility staff who care for residents with a variety of behavioral health conditions at absolutely no cost. Even providers of aging services who are not nursing homes will find helpful resources on the website. The Center will be featured on a LeadingAge member call in the near future and on the upcoming April 13 CMS SNF Open Door Forum (2:00 PM ET; no registration necessary; di Dial: 1-888-455-1397 & Conference Passcode: 4325849). Nursing homes that wish to request free assistance from the Center can submit an online request [here](#), or call the Center at (844) 314-1433.

Hospice Aide Visits Drop for Nursing Home Residents in First Year of Pandemic. A new [study](#) published in JAMDA found that more than half of long-stay nursing home residents enrolled in hospice did not receive any visits from hospice aides from April through December 2020. This highlights one of the vast disruptions in health care delivery during the first year of the COVID pandemic. Approximately 300,000 residents were reviewed for this study from 2019 to 2020. Even for residents who did receive at least one monthly hospice aide visit during 2020, the per-resident-per-month visit minutes were lower than the same months of 2019. Given the critical role aides play in hospice care, the reduction in visits was not only potentially detrimental to patients but also tracking of care for hospices from aide visit insights. Authors hope this research will prompt more inclusion of hospice providers during future emergency preparedness planning.

Expired COVID-19 Test Kit Update. LeadingAge has been working with the U.S. Department of Health and Human Services (HHS) to supply LeadingAge providers free COVID-19 test kits. In the last test kit order placed, some providers received test kits that were past their expiration date. LeadingAge communicated this to HHS and was provided with [this article](#) by the Food and Drug Administration (FDA) detailing which test kits have had their expiration dates extended and are, therefore, still effective for use. If you have any questions or concerns about the expired test kits, please contact info@leadingage.org. If you need test kits, more information and the order form are located [here](#). A separate portal, arranged in coordination with LeadingAge, is available for HUD 202 providers, [here](#).

Final MA Rates for CY2024 Will increase 3.32%: CMS issued its final CY2024 rate notice for Medicare Advantage plans, as we reported on Friday. In addition to changes about how MA plans are paid, the notice also includes changes that reduce out of pocket costs for Part D enrollees. For more details on what is in the rate notice, here is a LeadingAge [article](#). Our only concern about this rate notice and the CMS final rule on recouping plan overpayments is that we might see plans more aggressively reduce provider rates in the coming year to offset any losses they experience. We are expecting the CY2024 MA policy and technical change final any day now. It contains provisions that could limit prior authorizations by the plans among other changes.

CMS Clarifies in Writing that the End of the National Emergency and the Public Health Emergency are Two Different Things. Some Flexibilities Continue Through May 11. On March 31, CMS published an explanation of the [“Potential Impact of House Joint Resolution 7,”](#) to answer questions related to the difference between this resolution to end the National Emergency differs from the upcoming May 11 end of the Public Health Emergency. LeadingAge members have asked whether existing waivers under the PHE will end early or end May 11 as planned. As the CMS document explains, “Even if the COVID-19 National Emergency were to end, any existing waivers currently in effect and authorized under the 1135 waiver authorization for the pandemic would remain in place until the end of the federal PHE for COVID-19.” Simply put, the waivers will end but the date to end them does not change.

LeadingAge Meeting with White House Office of Public Engagement. On March 31, LeadingAge senior leaders met with staff from the White House Office of Public Engagement to discuss several critical issues, including ongoing dialogue on our request for a central, coordinating office of aging within the White House; the HCBS “settings rule” and its inapplicability to aging services; the need to rebalance White House messaging on nursing homes, and other concerns. Staff appeared to hear LeadingAge members’ concerns and committed to following up. We anticipate continued conversation on these and other issues.

OIG Initiating Nursing Home Medicaid Audits. The Office of the Inspector General is conducting audits of nursing home Medicaid spending seeking to determine how much of Medicaid nursing home payments are spent on direct patient care. We do not know yet which states they will be looking at but they have indicated they will select one for-profit, one non-profit and one government run nursing home in each state collected. It is suspected that the Administration may be looking at establishing national standard on how much of Medicaid payments should be spent on direct care. If this is the case, how “direct care” is defined will be critical in not only meeting the standard but also ensuring nursing homes can meet all of their regulatory obligations within such a standard. The report is expected to be issued in 2023 according to the OIG work plan information. Please let us know if any members in your state are contacted to be part of this audit.

Last Week's Nursing Home Weekly Update. Here is your weekly for March 31, 2023 -[Nursing Home Update](#).