



Nursing Home Weekly: Recap of LeadingAge Updates

April 21, 2023

Policy Update Calls – Mental Health Post-Pandemic. On **Monday, April 24 at 3:30 PM ET**, Mark SooHoo, Health Lead at Meteorite and Health Action Alliance, will join us to talk about the recent publication, "[Three Years of COVID-19: Lessons Learned and Next Steps for Employers](#)". We'll talk about important findings reported in the publication, such as employers reporting a continued need to prioritize mental health following a surge in reported levels of psychological distress during the pandemic and about the lasting impact of lost workdays. Most important we'll talk about what providers can do moving forward to ensure workplaces are healthy and robust. 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.

Elder Justice Act Reauthorization Introduced in House and Senate. On April 19, the *Elder Justice Reauthorization and Modernization Act of 2023* was introduced in the House and Senate. The bill builds on the Elder Justice Act by dedicating \$4.5 billion in funding through FY2027 for existing programs, as well as for three new programs to strengthen the long-term care workforce, address medical-legal needs, and respond to social isolation. The funding for new and existing programs includes:

- \$1.6 billion for post-acute and long-term care worker recruitment and retention;
- \$1.9 billion for Adult Protective Services functions and grant programs;
- \$232.5 million for long-term care ombudsman program grants and training;
- \$500 million to support linkages to legal services and medical-legal partnerships; and
- \$250 million to address social isolation and loneliness.

The bill's introduction was led by House Ways & Means Committee Ranking Member Richard E. Neal (D-MA), Senate Finance Committee Chairman Ron Wyden (D-OR), Senate Special Committee on Aging Chairman Bob Casey (D-PA), and Co-Chair of the House Elder Justice Caucus Congresswoman Suzanne Bonamici (D-OR). A summary of the bill can be found [here](#). A section-by-section summary of the bill can be found [here](#). The legislative text of the bill can be found [here](#). Bipartisan sponsorship will be needed to move the bill forward. In addition, it is important to note that the fate of this proposal is connected to the larger debate about the debt ceiling/budget cuts.

FDA Announces Changes to COVID Vaccine Guidelines and Eligibility. The FDA has announced important changes to COVID vaccine guidelines and eligibility for the general U.S. population, as well as for special categories such as young children, older adults, and immunocompromised persons. Drs. Robert Califf and Peter Mark briefly outlined these key changes in an April 20 webinar. The Emergency Use Authorization has been extended for both the Modern and Pfizer updated bivalent formulations of the COVID vaccine for a period of five years. Henceforth, only the updated bivalent formulations may be used for vaccinations, and **only one (1) administration of this updated vaccine is needed to be "up to date."** Generally, individuals who are already "up to date" do NOT need to have the updated vaccine to continue to be "up to date." Those who have NOT completed their original vaccine series OR have never been vaccinated will have to have one (1) administration of the updated vaccine to be "up to date."

Special categories of administration were next addressed. For those aged 65 or older (or immunocompromised), there is evidence that the immune response to COVID wanes after four months; therefore, they are considered up to date if they have had one bivalent dose. But they are eligible for another dose of the updated bivalent vaccine four months following their last shot. For children, those who are younger than 5 and receiving Pfizer, or younger than 6 and receiving Moderna will still need the same initial series and dosage, but using the updated bivalent formulation. Individuals with specific questions or who fall outside of the special categories are encouraged to consult their primary care physician. This is not a “new” vaccine and has been in use since September 2022. However, it is NOT considered a booster, but rather is a modified formulation to adjust to the current strains of COVID, and it will become the single-vaccine standard for becoming “up to date.”

CMS and HHS Host Educational Webinar on Medicaid Unwinding. CMS and HHS will host a webinar on “Medicaid and CHIP Continuous Enrollment Unwinding: What to Know and How to Prepare” on April 26 at 12:00 Noon ET. You can register [here](#) for the webinar and you will receive the Zoom link for it. Registrants will learn about how to educate staff and residents on the intersection of Medicaid coverage and employer sponsored coverage as continuous coverage provisions sunset. Presenters will cover a recent [issue brief](#) from the Assistant Secretary for Planning and Evaluation and employers’ roles in outreach related to the end of Medicaid continuous coverage. LeadingAge is maintaining information related to unwinding for members [here](#); you can access a high level QuickCast on the topic [here](#). Reach out to Georgia (GGoodman@leadingage.org) if you have questions or challenges.

COVID Vaccine Updates. FDA met on April 18 and authorized changes to COVID vaccines. Monovalent vaccines are no longer authorized. A single bivalent vaccine has been authorized for primary series vaccination. Individuals 65 years and older and individuals with immunocompromise have been authorized to receive a second bivalent booster, but individuals under age 65 and who are not immunocompromised are not authorized for additional bivalent boosters at this time. The CDC met on April 19 to review these authorizations and make accompanying recommendations. It is anticipated that recommendations will be consistent with FDA’s authorizations; however, we note that authorization and recommendation for second bivalent boosters does not mean that these are required to be considered up to date. We await more information from CDC. We also note that FDA and CDC intend to meet in June to further discuss the future of COVID vaccination, including the possibility of switching to an annual immunization schedule.

White House Executive Order and Fact Sheet on Caregivers. This week, the President signed an [Executive Order](#) summarizing his Administration’s caregiver actions and proposals; Katie Smith Sloan was among the invited guests. A Fact Sheet – “[Biden Harris Administration Announces Most Sweeping Set of Executive Actions to Improve Care in History](#)” released earlier in the day outlined key measures included in the Executive Order. This [LeadingAge article](#) summarizes the Fact Sheet and its implications for LeadingAge members. The set of initiatives released today repeats and consolidates prior budget requests and announcements and adds some new ones. LeadingAge supports the President’s proposed \$150 billion expansion of Medicaid home and community-based services funding, including a focus on supporting the HCBS workforce. We question the White House notion that there is a way to leverage Medicaid funds to ensure there are sufficient workers to provide care in HCBS settings. Importantly, the fact sheet includes a statement that the Administration will add regulations and requirements to staffing mandates (which are not yet issued) and withhold Medicare SNF funding for nursing homes that do not retain staff. (It is essential to point out that this implies a new requirement; in fact, the policy of using

SNF value-based purchasing to reward SNFs that retain staff has already been proposed.) Overall, LeadingAge is concerned that White House materials continue to frame the debate as “either/or” when talking about HCBS and nursing home funding, when both are needed. Further, we continue to point out that the workforce crisis remains the most challenging issue in long-term care and it will not be solved without comprehensive immigration reform. We will continue to report on follow up activities.

Don't Miss It: ERC Office Hours. Calling all LeadingAge members who have decided to pursue the Employee Retention Credit; we are hosting a panel of experts from Venable law firm, CliftonLarsonAllen and Forvis to answer your questions about the complexities you've encountered in navigating the ERC. ERC Office Hours will be held on Tuesday, April 25 from 3:30 - 4:30 PM ET; please email @Dee Pekruhn to register and receive the Zoom link. All members are welcome; this session is specifically tailored to those who have already pursued and/or filed for the ERC.

LeadingAge Submits Comments to CMS on Transparency of Nursing Home Ownership. LeadingAge on April 14 submitted comments to the Centers for Medicare and Medicaid Services (CMS) concerning a proposed rule that would require nursing homes enrolled in Medicare or Medicaid to disclose and submit certain ownership, managerial, and other information to CMS and state Medicaid agencies. We have posted an [article with a link to our comments and additional background about the proposed rule](#). We expressed support for efforts to ensure that older adults and families receive quality care in nursing homes, including the goals of transparency with respect to ownership and management. And we also voiced support specifically for an aspect of the proposed rule that would require owning and managing entities of skilled nursing facilities to disclose whether they are either a private equity company or a real estate investment trust. Our letter also offered comments and recommendations, however, asking CMS to take steps to lessen the burden of data submission.

PRF Late Reporting Requests for Reporting Period 4 Opens – April 17. The Health Resources and Services Administration (HRSA) sent notices to providers recently who failed to report on their Provider Relief Fund (PRF) payments for Reporting Period 4 (covers payments from July 1 – December 31, 2021). These notices describe the extenuating circumstances under which they can request the opportunity to submit a late report. Late reporting requests will be accepted through April 28, 11:59 PM ET. If the request is approved, providers will be required to submit their RP4 reports between May 15 and June 2. None of these dates will be extended. Providers must first be registered in the [PRF Reporting Portal](#) and the request is to be submitted via a [DocuSign form](#). Additional details on late reporting can be found [here](#).

FY 2024 SNF PPS Proposed Rule Analysis. Please find a members-only analysis of the FY 2024 SNF PPS proposed rule [here](#). Your LeadingAge login is required to access. We will also host a special Nursing Home Network call on Friday, April 28 at 1 PM ET to discuss the rule in depth and solicit feedback from members as we construct comments on the rule. To provide feedback, or if you want to join the call and you're not yet a member of the Nursing Home Network, email Jodi (jevigor@leadingage.org).

NIC Executive Summary Survey Released. The National Investment Center released their latest [Executive Summary survey](#), which focused primarily on rising costs, resident acuity and workforce challenges. Survey respondents indicated that the biggest challenges facing their organizations were rising operating costs (92%), staff turnover (88%) and recruiting new caregivers and community staff (82%.) In a related

question, more than half of respondents reported that incoming resident acuity level was higher than it was a year ago; not one survey participant reported that acuity had declined. When asked why residents were joining the community with higher-than-previous acuity levels, the frequently-cited reasons were that residents are waiting longer to move-in, had delayed needed medical treatment due to the pandemic, or had an acute medical episode that necessitated a move. In terms of occupancy leads, 77% of single site operators reported higher leads volumes, and 92% of multisite operators that have ten or more properties reported the same increase in leads volumes. Staff retention had reportedly declined since last year; only 30% of organizations have retained more than 80% of their new hires after one month, and only 7% reported that they had retained more than 80% of their employees after one year. Rising interest rates have had the greatest impact on organizations' ability to recapitalize existing properties, as well as the ability to purchase new properties. This was attributed in part to creditors' increasing hesitancy to partner on funding projects, along with the rising cost of debt. Notably, most respondents in this survey were for-profit operators (61%); only 29% were solely not-for-profit organizations.

No Change in CDC/CMS Masking Requirements. CMS requirements for masking in nursing homes continue to refer to and be dependent on CDC county transmission levels. One of the most frequent questions we hear is whether that is changing with the end of the Public Health Emergency. Unfortunately, at present, the answer is no; the requirement is not changing.

We have not been made aware of any coming changes to recommendations, including recommendations for masking. Even after the public health emergency ends, nursing homes will still be required to follow the CDC recommendations as an "accepted national standard" per the Infection Control requirements, which state that the infection prevention and control program must be based on an accepted national standard.

In conversations with CDC, rather than talking about relaxing recommendations, they're encouraging providers to consider how the mitigation strategies that were put in place over the past 3 years had a positive impact on infection control beyond COVID-19 (for example, we had a year or so where we essentially skipped flu season). The message we keep hearing is, "The PHE is ending but COVID is not."

LeadingAge members from around the country are reporting that hospitals in their area seem to be relaxing masking requirements. When we ask CMS the response is that hospitals should not be doing that. LeadingAge will continue talking with CMS and CDC about the requirement and its impact on providers of nursing home services and the residents they serve and care for.

MACPAC Discussed Denials and Appeals in Managed Care The Medicaid and CHIP Payment Access Commission (MACPAC) serves as a non-partisan advisory and analytic agency to Congress and members of the president's administration. On April 14, Commissioners and attendees heard a [presentation](#) from staff on interview findings of beneficiaries and managed care organizations. The questions were designed to help interviewers better understand how appeals processes help beneficiaries access services and understanding of denials oversight in managed care. MCOs asserted that many denials were issued because of inadequate documentation to determine medical necessity. Beneficiaries noted concerns with conflicts of interest in MCOs handling of appeals citing misaligned incentives. Following the presentation from staff, spirited conversation and comments from commissioners aligned with many

of LeadingAge's concerns around prior authorization and denials as outlined in this LeadingAge [article](#) about our recently issued white paper, *Fulfilling the Promise: Medicare Advantage*. MACPAC is considering recommendations and LeadingAge will continue to monitor and engage on developments.

Nursing Home Focus Group on NHSN. In January 2023, LeadingAge shared a research opportunity for nursing home members to participate in a focus group on healthcare associated infection reporting in NHSN. Continuing this work on behalf of CDC, Arbor Research Collaborative is soliciting participants for another focus group session. Arbor Research will be holding a virtual 90-minute focus group session to obtain feedback from approximately 8-10 nursing homes regarding your shared experiences, including any barriers and suggestions on improvement with regards to capture and reporting of HAI data – such as *Clostridioides difficile* (C. diff) and Multi Drug Resistant Organisms (MDRO) infections. Members can indicate interest in participating in one of the focus groups [here](#).

Last Week's Nursing Home Weekly Update. Here is the April 14, 2023 [Nursing Home Update](#).