



Medicaid HCBS and PACE Weekly

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.

Veterans' Administration representative coming to April 27 Adult Day Network Call. Daniel Schoeps, Director of the Purchased Long Term Care Policy Group in the Office of Geriatrics and Extended Care at the VA will join the April 27th Adult Day Network call. Dan joined this network in September and by popular demand, is making a return appearance. If an adult day member is not yet enrolled in our network, they can register [here](#) or email Georgia at ggoodman@leadingage.org.

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](#).

Advisory Committee Recommends PACE Expansion to HHS Secretary. The National Advisory Committee on Rural Health and Human Services (the committee) released their policy brief and recommendations, today. [The committee](#) is an independent advisory group within the Health Resources and Services Administration (HRSA) comprised of members from across the country. The committee met to discuss the PACE program and looked at flexibilities and waivers that may be necessary to promote PACE expansion, particularly in rural areas. The committee noted the benefits of PACE and focused on opportunities the secretary should pursue to alleviate barriers. Recommendations spanned workforce support, telehealth flexibilities, financial innovations and pilots, and additional regulatory guidance and support. Read the full report [here](#).

Representatives Slotkin (D-MI), Steil (R-WI), Kuster (D-NH), and Trone (D-MD) reintroduce the Expanding Veterans' Options for Long Term Care Act. The Expanding Veterans' Options for Long Term Care, which was introduced in the [Senate](#) in February, was reintroduced on April 4 in the House. The bill would establish a pilot program that would be conducted at six [Veterans Integrated Services Networks](#) (VISNs) nationwide with at least two program sites located in rural or highly rural areas and two sites at State Veterans Homes. LeadingAge has been working in coalition to support the reintroduction of this legislation and a quote indicating our support is included in the [press release](#).

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](#).

Transportation Accessibility Institute Applications Open! The Administration on Community Living (ACL) funds the Community Transportation Association of America (CTAA) and is hosting an accessibility institute in Oklahoma City on May 22, 2023. CTAA is seeking participation in teams to discuss inclusive planning for individuals with diverse mobility abilities, older adults, and individuals with disabilities. Additional information on participation can be found [here](#). Transportation and lodging can be covered by CTAA through the application process for selected applicants.

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.

ERC and Medicaid Rate Reductions. To expedite communication with states, CMS communicated via email not formal letter with State Medicaid agencies indicating they should treat Employee Retention Credits like Provider Relief and Paycheck Protection Dollars not as a tax credit that should be offset. This clarification impacts both Medicaid Cost Reports and Medicaid rate setting and was distributed a few weeks ago. Please let [Nicole Fallon](#) know if your state issues any rate reduction notices due to the impacts of the ERC. We will promptly communicate this to our contacts at CMS and they will follow up directly with the states in question. We've heard that about a dozen states had issued rate reduction letters about 3 weeks ago so this practice should have stopped.

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Last Week's Medicaid HCBS and PACE Weekly Update. Here is your weekly for March 31, 2023 [HCBS and PACE Weekly Update](#).