



## Workforce Policy Weekly: Recap of LeadingAge Updates

August 4, 2023

**LeadingAge Member Calls:** On **Monday August 7<sup>th</sup>**, we will welcome Steve Moran, Publisher, Senior Living Foresight. He will discuss leadership, employee engagement, development, and other strategies and insight on maintaining and growing senior living and the workforce. On **Wednesday August 9<sup>th</sup>**, we will welcome Mary Munoz, Senior Managing Director, Senior Living Finance Practice. She will talk about trends in business transactions, affiliations, and other factors impacting long term sustainability and survivability. Members and other interested individuals can sign up to join LeadingAge's Policy Update calls [here](#). 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.

**Senate Appropriations Committee Passes FY24 Labor-HHS Funding Bill.** On July 27, the Senate Appropriations Committee approved by a 26-2 vote the Fiscal Year (FY) 2024 Labor, Health and Human Services, Education, and Related Agencies Appropriations bill. The bill is essentially flat-funded at FY23 levels – well below inflation – providing \$224.4 billion in total discretionary spending. Senate appropriators will have to reconcile these funding levels with the House version of the bill, which provides \$147 billion in total discretionary spending -- a 30% cut to current levels. [An article highlighting key elements of the bill can be found here.](#)

**Updates to Administrator Turnover Data Exclusions.** CMS has updated exclusion criteria for the Administrator Turnover measure on Care Compare. Previously, the measure was excluded for nursing homes submitting PBJ data with 5 or more administrators on 12 or more days during a 3 quarter period. These nursing homes were excluded due to what CMS categorized as an erroneously high number of administrators (likely due to errors in reporting). With the July 26 refresh, CMS has now updated criteria to exclude measures for nursing homes reporting 5 or more administrators on 4 or more days during one quarter. Read more about these changes in the [Care Compare Nursing Home Five-Star Quality Rating Technical Users' Guide](#).

**IRS Updates ERC FAQs.** The IRS has very recently updated their [FAQs](#) on claiming the Employee Retention Credit. While many of the updates clarify points of the ERC that have already been covered by experts on the LeadingAge ERC [webinars](#), a few key new items are worth mentioning.

- The FAQ [clarifies](#) that in order for an organization to claim ERC funds due to a supply chain disruption, three criteria must be met: the organization's supplier must have suspended services due to a government order, the organization must not have been able to find alternate supplies to full the need for supplies, and these two factors must be proven to have fully or partially suspended the organization's operations during that same period of time. This IRS [Generic Legal Advice Memorandum](#) further clarifies the interpretation of this section of the CARES Act along with subsequent IRS GLAMs and guidance notices, and offers five helpful, illustrative scenarios to further explicate this clarification on ERC eligibility.
- There is emphasis that if an organization has discovered that it inappropriately claimed and received ERC funds, it may face penalties and interest fees on top of the repayment amount. 3) That if ERC

funds are received, the organization should be sure to adjust its wage deduction on its income tax return filing as well, to avoid future tax filing issues.

- The IRS offers extensive ‘warning signs’ to help organizations know when they are being taken advantage of by an “ERC Mill” and how to alert the IRS to such ‘bad actor’ firms.
- It gives a detailed listing of documentation and recordkeeping that organizations who receive the ERC funds is given towards the bottom of the FAQs.

For further details, visit the official IRS ERC [website](#), and stay tuned for an upcoming LeadingAge QuickCast that will summarize news and updates on the ERC.

**USCIS Publishes Revised Form I-9:** On August 1 the U.S. Citizenship and Immigration Services (USCIS) published a revised version [of Form I-9 \(Employment Eligibility Verification\)](#). USCIS had previously indicated its intention to publish a revision, and it is now available. After Oct. 31, 2023, the prior version of Form I-9 will be obsolete and no longer valid for use. Here is a link to the [USCIS announcement](#) that forecasted the release of the revised version and summarizes the changes.

**EEOC Adds Second Opportunity for Webinar on Laws Concerning Women in the Workplace:** Two laws have taken effect this year relating to workers and pregnancy: the [Providing Urgent Maternal Protections for Nursing Mothers Act](#) and the [Pregnant Workers Fairness Act](#). We previously shared that the Equal Employment Opportunity Commission and the Department of Labor would present a webinar Aug. 23 to provide updates on these new laws and other regulatory issues relating to women in the workplace but heard from members that the program had reached maximum capacity by the time they attempted to register. We reached out to the EEOC and learned that the agencies now plan to offer the same webinar the following week at the same time: August 30, 2023, 11:00 am – 1:00 Eastern time. Members may [click here to register in advance for the encore performance](#).

**NCSL Report Highlights State Programs to Address or Mitigate Workforce Shortages:** The National Conference of State Legislatures (NCSL) on June 29 published a report that provides an overview of programs states have implemented to address or mitigate health care workforce shortages. NCSL serves state lawmakers through research, technical assistance and opportunities for policymakers to exchange ideas on pressing issues. The report – [Leveraging Career Pathway Programs: State Strategies to Combat Health Care Workforce Shortages](#) – describes programs across various stages of education, including K-12, community college, and undergraduate programs designed to prepare individuals for the next level of employment, certification or educational level. While focused on health care broadly, the report highlights a variety of initiatives relevant to the direct care workforce needs of aging services providers – such as career pathway programs designed to support certified nursing assistant and home care aides in becoming licensed practical nurses – which may be replicable in other states. We shared this link in an earlier Weekly update but are noting it again because we spotlighted the report during our Aug. 2 Policy Update Call.

**Last Week’s Workforce Weekly Update.** Here is the July 28, 2023 [Workforce Policy Update](#).