



Nursing Home Weekly: Recap of LeadingAge Updates

September 22, 2023

LeadingAge Policy Update Calls; all calls are at 3:30 p.m. ET. With an updated vaccine formula rolling out this fall, it's important to know how this can impact our members and the people they serve. Join us on **September 25** to hear from Todd King, Senior Director of Clinical Services, and Nicole Kostelic, Executive Director of Quality LTC at Omnicare, a CVS Health Company. They will talk about what's new with the flu, COVID, and additional vaccination considerations, and discuss overcoming vaccine hesitancy. 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.

Need Help with Your Comments on the Staffing Standard? LeadingAge has released our guide to commenting on the nursing home staffing standard proposed rule. You can find the guide [here](#). Rather than providing a fill-in-the-blank template, we're providing a guide to help members submit unique, impactful comments that tell CMS exactly how this proposed standard will play out in the real world. CMS can make estimates based on data, but members can tell the real impact.

"Up to Date" Definition Change Reporting Trainings. CDC will change the NHSN surveillance definition of "up to date" for reporting weeks beginning on September 25, 2023 to align with new [ACIP recommendations](#) for COVID-19 vaccines. Once the new vaccine and new vaccination recommendations are applied to surveillance data collection, the percentage of long-term care residents and healthcare personnel who are reported as up to date for COVID vaccine may change. Trainings:

When: Sep 25, 2023 1:00 PM Eastern Time (US and Canada)	Topic: Up to Date Vaccination Status: Surveillance Definition Change for Long Term Care Facilities (REPLAY) Webinar Register in advance for this webinar: https://cdc.zoomgov.com/webinar/register/WN_JGOOXuiSAW1VF2zS-baw
When: Oct 2, 2023 1:00 PM Eastern Time (US and Canada)	Topic: Up to Date Vaccination Status: Surveillance Definition Change for Long Term Care Facilities (REPLAY) Webinar Register in advance for this webinar: https://cdc.zoomgov.com/webinar/register/WN_TDnotOroSbiPut3-2-5RtQ

CMS Announces Updates to Care Compare Staffing and Quality Measures CMS released [memo QSO-23-21-NH](#) on September 20 that outlines changes to Care Compare coming with the April 2024 refresh. Changes are largely due to the October 1 implementation of the new Minimum Data Set. Due to the removal of Section G and the resulting transition from RUGS-IV case mix methodology to a PDPM-based methodology, staffing measures and 3 quality measures will be frozen beginning with the April 2024 refresh. Staffing measures will unfreeze with the July 2024 refresh. One quality measure will unfreeze in October 2024 and the remaining QMs will unfreeze with the January 2025 refresh. Separately, CMS

announced a change to staffing measure penalties in which providers who fail to submit PBJ data will receive the lowest possible scores for staffing ratings beginning in April 2024 (remember that the ratings will be frozen until July 2024). More information is available in the [Nursing Home Care Compare Five Star Quality Rating System Technical Users Guide](#).

Coalition letter on Observation Stays sent to Congress. On September 18, LeadingAge joined a broad coalition of health care providers and advocates in sending letters to two Congressional Committees expressing support for the re-introduction and passage of H.R. 5138, the Improving Access to Medicare Coverage Act. Introduced on August 4 by U.S. Representatives Joe Courtney (D-CT), Glenn 'GT' Thompson (R-PA), Susan DelBene (D-WA), and Ron Estes (R-KS), this bill would make days spent in the hospital under observation status count towards Medicare's three-day inpatient stay requirement for SNF coverage. These letters were sent to the two committees with jurisdiction over the bill, the House Ways and Means Committee and the House Energy and Commerce Committee. To read the letters, click [here](#) and [here](#).

LeadingAge joins letter in support of the Nursing Home Disclosure Act. On September 20, LeadingAge joined multiple stakeholders in sending a letter in support of H.R. 177, the Nursing Home Disclosure Act. This bipartisan bill, introduced back on January 10 by U.S. Representatives Mike Levin (D-CA) and Brian Fitzpatrick (R-PA), would require nursing homes to report their medical directors to the Centers for Medicare and Medicaid Services (CMS), who would then publish this information on Care Compare. Currently, some nursing homes do not provide a full public report of who their medical directors are, leaving families without critical information they need as they search for quality nursing homes and care for their loved ones. [Click here to read the full letter.](#)

Sunsetting Medicaid Flexibilities. Pandemic-era Medicaid flexibilities allowing augmented access to home and community-based services through 1115 and 1915 authorities have or will be sunsetting. While states had options to make many of these flexibilities permanent, many states have selected to not seek permanent authority to continue these flexibilities. KFF released an [issue brief](#) on September 19 outlining a number of findings from a recent survey and stressing how these changes could affect the already dire workforce shortage, including:

- 49 states elected to allow for virtual eligibility and care planning visits. Just over half - 26 states have or will maintain this flexibility, leaving 23 states to terminate this option,
- 21 states are reverting to service utilization limits as outlined in their approved waivers,
- 19 states are returning to pre-pandemic prior authorization requirements,
- 17 states have or will be terminating payments to family caregivers or legally responsible parties to be paid for Medicaid reimbursable services.

Restart of Free COVID Tests Mailed to Households. Beginning September 25, every U.S. household can again place an order to receive four more free COVID-19 rapid tests delivered directly to their home. Starting September 25, the free tests can be ordered via www.covidtests.gov. HHS officials say the tests are able to detect the latest COVID variants and are intended to be used through the end of the year. In related news, the Food & Drug Administration has a website to [see if existing COVID tests' expiration dates have been extended](#).

No Change in HHS Policy for Distributing COVID Test Kits to LTC Providers. With the uptick in COVID cases, LeadingAge has received some questions about whether HHS is still distributing COVID-19 test kits to long-term care providers and what to do to obtain additional test kits or ask questions. We queried

the individual who leads this work in the HHS Office of the Assistant Secretary for Preparedness and Response (ASPR). First, HHS is continuing to distribute test kits to assisted living and nursing home providers, sending weekly allocations to sites unless they have asked to no longer receive test kits or have asked for a decrease in their allocations. If providers have questions or want to request more test kits, they are advised to email tdx@hhs.gov with specific numbers and details on where to send the test kits.

Reminder – PRF Reporting Deadline Sept. 30. Provider Relief Fund Reporting Period 5 reports are due just 10 days from now. Providers who received PRF and ARP Rural payments from January 1 - June 30, 2022 must submit their reports no later than 11:59 p.m. ET on September 30. Failure to submit a report will require the provider to return the funds received. As providers complete their reports, they are encouraged to look very closely at the expenses that they submit to make sure there is a clear nexus to COVID-19. Some providers who had their prior reports audited had some of their expenses disallowed, as the expenses were not deemed related to preventing, preparing for or responding to COVID-19. More information on allowable PRF and ARP Rural expenses can be found [here](#).

Around the States on Staffing Mandates. In addition to LeadingAge national's advocacy related to the proposed staffing standards - with the Administration and the Congress – members and state partners are taking steps to keep pushing the message out. LeadingAge Nebraska members shared a [letter to CMS Administrator Brooks-LaSure from the state's Congressional delegation](#), pointing out the unique compliance challenges that would be faced by rural states if the rule were finalized as is. Seeking to ensure “sustainability of access to long-term care,” the delegation posed 11 questions to the Administrator, which CMS will now have to answer. LeadingAge Georgia CEO Ginny Helms authored an [opinion piece](#) in the Sunday, September 17 Atlanta Journal Constitution describing the impact of the proposed rule and calling on the state's governor to increase funding for training of nurses and for nursing homes.

CMS Releases Final Rule Streamlining Enrollment in the Medicare Savings Program. On September 18 the Centers for Medicare and Medicaid Services (CMS) finalized a rule simplifying access to and reducing costs for health care coverage for eligible individuals. The Medicare Savings Program (MSP) could reduce Medicare-related costs for about 10 million older adults and people with physical disabilities estimated to be eligible for MSP. This rule reduces administrative barriers previously causing beneficiaries to lose or fail to renew MSP participation. CMS estimates the new rule will save applicants and enrollees upwards of 19 million hours of paperwork each year. CMS notes complexities currently plaguing state Medicaid programs including the unwinding of continuous coverage and leaves states ample time to update processes with most provisions awaiting a compliance date on April 1, 2026. The full rule can be reviewed [here](#).

CMS Plans to Launch Health Equity Confidential Feedback Reports in October 2023. In October, the Centers for Medicare & Medicaid Services (CMS) will release two new Health Equity Confidential Feedback Reports to post-acute care (PAC) providers in the Home Health (HH), Inpatient Rehabilitation Facility (IRF), Long-Term Care Hospital (LTCH), and Skilled Nursing Facility (SNF) settings. The reports will be titled the Discharge to Community (DTC) Health Equity Confidential Feedback Report and the Medicare Spending Per Beneficiary (MSPB) Health Equity Confidential Feedback Report. The PAC Health Equity Confidential Feedback Reports will stratify the DTC and MSPB measures by dual-enrollment status and race/ethnicity. CMS will release the Health Equity Confidential Feedback Reports through the

Internet Quality Improvement & Evaluation System (iQIES) reports folders. Additionally, an educational webinar recording and fact sheet providing an overview of the Health Equity Confidential Feedback Reports will be released alongside the reports next month on each of the following post-acute care setting's pages: HH Training & Education [webpage](#); SNF Training & Education [webpage](#).

Last Week's Nursing Home Weekly Update. Here is the September 15, 2023 [Nursing Home Update](#).