

Hospice Weekly: Recap of Leading Age Updates

September 1, 2023

LeadingAge Policy Update Calls; all calls are at 3:30 PM ET. It all comes down to workforce and retention of staff is key. **No call on Monday, September 4. LeadingAge will be closed for Labor Day.**

Building on our August 30 conversation on retention, **on Wednesday, September 6**, we'll be joined by **Gretchen Berlin, RN**, Senior Partner at McKinsey & Company who will talk about her recent study focusing on [reimagining the nursing workload and finding time to close the workforce gap](#). More workforce! On a recent call both our guest and Jenna talked about connecting younger kids with aging services early. The James L. West Center for Dementia Care has a program that engages middle school students in care. **Kristie Boiles**, who created and runs that program, will join us on **Monday, September 11** to talk about it. Join us for this fruitful conversation.

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.

CMS clarifies interpretation of hospice MFT and MHC; advocacy will continue. In the proposed CY2024 Physician Fee Schedule Rule, for which comments are due Sept 11, CMS is proposing to implement a provision from the Consolidated Appropriations Act, 2023 that allows marriage and family therapists (MFTs) and mental health counselors (MHCs) to serve on the hospice IDG in the role that a social worker plays. Our understanding from the authors of the provision is that the utilization of MFTs and MHCs were meant to be options for hospice organizations not a requirement in addition to having a social worker on the IDG. The language in the proposed rule was confusing on this point and LeadingAge planned to comment for clarification. On August 30th's open door forum, CMS clarified that their interpretation and what they are proposing is that hospices will need to have all three disciplines – SW, MFT, and MHC -- available. Only the social worker would need to be directly employed. We do not agree with this interpretation and will be follow up with the Congressional authors and commenting on the rule to CMS regarding this discrepancy. We will keep members posted on this issue.

LeadingAge submits comments on the home health proposed payment rule. LeadingAge submitted [comments](#) on the CY2024 Home Health Payment rule on August 29. The comments detailed the devastating impact that CMS' proposed cuts would have on our mission driven home health members. We highlighted the current state of the industry and how continued payment cuts would only continue to decrease access to care. We responded to the RFI on home health aides and underscored our workforce agenda as well as current challenges to utilizing home health aides in Medicare home health. The HH rule also included hospice provisions. We made substantial comments on the proposal around a hospice special focus program and asked that CMS revisit its algorithm before implementation. CMS made a number of other program integrity related proposals in this rule that we supported.

LeadingAge Press Release on Home Health Rule. On August 30, Katie Smith Sloan released a statement on LeadingAge's comments on the CY2024 home health rule. The statement underscored the points made in the comment letter regarding the devastating impacts on access to care that the proposed cuts

would have and how the proposal runs counter to the Administration’s own rhetoric on the importance of home and community-based care. The statement can be found [here](#).

Member-Exclusive GUIDE Webinar Answers Many Questions About Model Participation – RECORDING COMING SOON : Nearly 90 LeadingAge members learned more about the new dementia care model from experts at the Center for Medicare and Medicaid Innovation on the August 30 LeadingAge member-only webinar. The webinar included more than 40 minutes of Q &A where CMMI staff answered questions important to LeadingAge member aging services providers. CMMI clarified how the monthly model payments will work and which additional services can be billed, who can serve as the care navigator and “dementia proficient” clinician on the interdisciplinary team, who is responsible for identifying beneficiaries for the model. The webinar recording will be available exclusively to LeadingAge members within the next 7 days on the LeadingAge Learning Hub. Members interested in possibly applying for the model are encouraged to submit their Letter of Intent by the September 15 deadline. The application is expected to be released in the fall.

HHS Recommends Adjustment to Marijuana Classification Under Federal Law: Report. The U.S. Department of Health and Human Services (HHS) on August 29 sent a letter to the U.S. Drug Enforcement Agency (DEA) recommending that marijuana be reclassified from a Schedule I drug to a Schedule III drug under the Controlled Substances Act, according to a [report from Bloomberg](#). While this recommendation does not change the legal status of marijuana under federal law, nor does it bind the DEA to make a scheduling change, it reflects that HHS, including its Food & Drug Administration, has taken action in response to an [October 2022 statement from President Biden on marijuana reform](#), in which the President directed HHS and the U.S. Department of Justice (which houses the DEA) to initiate an administrative process “to review expeditiously how marijuana is scheduled under federal law.” As noted in the Bloomberg article, Schedule III drugs are considered as less dangerous than Schedule I substances and can be obtained legally with a prescription. A reclassification would not resolve all conflicts between federal and state laws regulating use of marijuana for medical or recreational purposes, but HHS’s recommendation is a significant development. DEA, which has final authority on the issue of rescheduling, will now undertake its own review, and we will continue to follow this evolving story.

CMS SELECTS FIRST DRUGS FOR MEDICARE PRICE NEGOTIATION. On August 29 the [U.S. Department of Health and Human Services \(HHS\) announced](#) a highly-anticipated initial list of drugs that will be subject to price negotiation between CMS and drug manufacturers. The Inflation Reduction Act of 2022 requires HHS to negotiate directly with participating manufacturers of selected drugs covered under a Medicare Part D plan (including a Medicare Advantage Prescription Drug plan under Medicare Part C) and, eventually, Medicare Part B. LeadingAge will prepare a longer article summarizing how CMS intends to implement this program, but for today we wanted to share some high-level information with members:

1. **What are the goals of the program?** The goals are to increase accessibility and affordability of prescription drugs for Medicare enrollees, including a reduction of out-of-pocket costs for beneficiaries, reduce the rate of growth in Medicare drug spending, and improve the financial sustainability of the Medicare program as a whole.
2. **What drugs qualify for price negotiation?** The law authorizes Medicare to directly negotiate drug prices for certain high expenditure, single source Medicare drugs covered under either Part B or Part D, and only drugs for which there is no generic or biosimilar competition. It is important for members to note that Medicare Part A drugs are not specified to be part of this program.

This [Fact Sheet](#) identifies the 10 Part D drugs selected for the first phase of the program and how CMS arrived at its decision. These selected drugs accounted for about 20% of total Part D gross covered prescription drug costs between June 1, 2022, and May 31, 2023, which is the time period used to determine which drugs were eligible for negotiation.

3. **When will negotiations begin and when will the established prices take effect?** Oct. 1, 2023, is the deadline for participating companies that manufacture the 10 Part D drugs initially selected for the negotiation program for 2026 to choose whether to sign agreements to participate in the negotiation. The manufacturers of selected drugs that wish to business with Medicare and Medicaid will be required to participate or face financial penalties. The negotiation period will end Aug. 1, 2024, and the negotiated maximum prices for these 10 drugs will be effective in 2026.
It remains to be seen whether all will go according to CMS's plan, however, because a number of manufacturers, including several who make a drug that CMS selected for the initial list, as well as the U.S. Chamber of Commerce, have filed lawsuits challenging the legality of the negotiation program.
4. **Will the program expand to include other Part D and Part B drugs?** Yes. In future years, CMS will select for negotiation up to 15 more drugs covered under Part D for 2027, up to 15 more drugs for 2028 (including drugs covered under Part B and Part D), and up to 20 more drugs for each year after that, as outlined in the Inflation Reduction Act.

Stay Cautious for the Fall Respiratory Disease Season. CDC shared their Respiratory Disease Season Outlook on a partners information session on August 30 to discuss predictions for the 2023-2024 respiratory disease season. CDC predicts a moderate COVID wave and typical waves of flu and RSV this respiratory disease season but warns that a strain on the healthcare system could be possible depending on various factors. CDC warns that though individual diseases may peak at different times, the respiratory disease season as a whole will likely peak higher than pre-pandemic seasons. COVID severity is likely to be consistent with last year's severity, but timing of a peak is unknown and both severity and peak will depend on factors such as vaccine uptake and appearance of immune-escaping variants. Flu is predicted to be within the typical range of severity but CDC warns flu season could peak early this year. RSV is anticipated to be typical in severity, but CDC warns it is challenging to anticipate RSV severity and peak due to a lack of data and models at this time. Other factors, such as RSV vaccine uptake, will also have an impact. LeadingAge encourages members to work with your pharmacy partners to ensure you are able to offer vaccination for all three diseases in your communities.

FEMA Webinar on Preparedness for Providers of Aging Services. The Federal Emergency Management Agency (FEMA), along with the HHS Administration on Community Living (ACL) and the Substance Abuse and Mental Health Services Administration (SAMHSA) offer providers of services to older adults a webinar to help them prepare to continue critical services, even during disasters. The webinar, set for September 6 from 10:30 AM – Noon ET, will cover continuity of operations, preparedness planning for older adults, disaster mental health issues, and case studies. All interested stakeholders are invited and may register [here](#).

Last Week's Hospice Weekly Update. Here is the August 25, 2023 [Hospice Update](#).

