



## Nursing Home Weekly: Recap of LeadingAge Updates

October 6, 2023

**LeadingAge Policy Update Calls; all calls are at 3:30 p.m. ET. NO CALL ON MONDAY, OCTOBER 9, which is a holiday for many people.** On **Wednesday, October 11**, let's get a firsthand report about Congress in Your Neighborhood. Join us as we chat with **Melanie Hall from the Hospice of Huntington in West Virginia**. She hosted Senator Shelly Capito for a ribbon cutting at her new adult day center. We'll talk about that visit – how the organization prepared, the kinds of information they shared, what kinds of questions came up answer your questions about how effective and energizing hosting members of Congress can be. We'll also drill down a bit on the idea of and considerations for a hospice expanding into adult day services.

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.

**Senators Call for Stopping Implementation of the Proposed Staffing Standard.** As a part of their continued effort to support rural nursing homes and ensure America's seniors are receiving the highest quality of long-term care possible, Senators Tester (D-MT) and Lankford (R-OK) led a bipartisan letter signed by 28 members of the Senate demanding the Biden Administration abandon the proposed rule that would increase staffing ratios in rural nursing homes, which could result in facility closures and reductions in access to care across the country. The letter to CMS Administrator Brooks-LaSure **said, in part: "In many parts of the country, America's long-term care facilities are facing severe workforce shortage issues that are harming access to critical care for our nation's seniors. With this in mind, we are deeply concerned that now is the worst possible time for the United States to establish the nation's first federal staffing mandate for long-term care facilities. We urge you to rescind CMS's proposed rule and instead commit to working with Congress on a large number of alternative approaches to ensure the quality and safety of care in skilled nursing facilities."**

Senator Tester is dedicated to preserving access to long-term care and has long advocated for realistic policy that can support care, particularly in rural America. In June 2023, he sent [two letters to CMS](#) Administrator Chiquita Brooks-LaSure to express concerns about the Administration's intent to issue staffing mandates for nursing homes. Senator Tester [sent an additional letter to CMS](#) urging the agency to reconsider a proposed rule to update Medicare payment policies and rates for skilled nursing facilities that would have resulted in a \$320 million overall decrease in payments to long term care facilities.

Check out the bipartisan Senate [letter](#). If your Senator signed on, contact their office, and thank them for their support and commitment to this issue.

**Ongoing Congressional Inquiry on Medicaid MCO Denials.** Following a mid-July [report](#) by the Office of Inspector General (OIG) revealing high rates of prior authorization denials in Medicaid Managed Care, there was interest from Congress. In early August Congressman Pallone (D-NJ) announced that he would investigate the MCOS rendering denials about twice as often as Medicare Advantage Plans. Since initially

announced, Senator Wyden (D-OR) has joined Congressman Pallone in sending letters to each managed care organization outlined in the OIG report. The updated announcement is available [here](#). Letters to each MCO are available: [Aetna Inc.](#); [AmeriHealth Caritas](#); [CareSource](#); [Centene Corporation](#); [Elevance](#); [Molina Healthcare Inc.](#); [United Healthcare](#)

Senator Casey Separately sent a letter to CMS Administrator Brooks-LaSure on October 3, citing the OIG report and outlining concerns that MCOs are improperly denying coverage that can negatively affect patient outcomes. The letter goes on to note individual experiences with service denials while also touching on the effects on providers resulting in wasted staff time, delayed treatment, and payment debates for rendered services. From his concerns, Senator Casey asks the Administrator for answers to questions about how CMS is responding to recommendations from the OIG, how access to services are being assured, how participants are made aware of appeal and fair hearings rights, among others. Read the letter [here](#).

**What Are Long-Term Services and Supports? CRS Answers!** On October 2, the Congressional Research Service updated their “In Focus” article titled “[Overview of Long Term Services and Supports](#).” This series of one-page articles helps congressional staff understand various policy issues. For this, CRS defines long term services and supports as “Long-term services and supports (LTSS) refers to a broad range of health and health-related services and supports needed by individuals who lack the capacity for self-care due to a physical, cognitive, or mental disability or condition.” This most recent update covers what LTSS is, who needs LTSS, who pays for LTSS and the costs of LTSS. The table reviewing the costs of LTSS includes costs associated with the continuum of LeadingAge members, including nursing home, home health, assisted living, and adult day.

**“Without Rate Construction reform, SNFs become “SCNFs” – Swiss Cheese Nursing Facilities”** In a white paper, *The Great Transition: Medicaid Rate Construction Reform*, Marc Zimmet of Zimmet Healthcare Services, purports access to local nursing facility care is at risk in certain communities because of current Medicaid rate structures. Zimmet stresses that healthcare is local, and factors used in attributing reimbursement in both Medicare and Medicaid make survival in some localities impossible. Understanding that Medicare and private pay have long propped up Medicaid underfunding, small shifts in Medicare reimbursement trends have significant effects on individual NF financial stability. Expanding enrollment in Medicare advantage is driving down length of stay, while simultaneously deflating reimbursement for services reducing the expendable funds from Medicare stays- dollars used to cover Medicaid shortfalls in the past (traditionally called cost-shifting). Zimmet concludes that without wholesale rethinking of Medicaid Rate development and construction as states move from RUGS to PDPM, little will change. With CMS abandonment of MDS Section G, massive reshuffling will occur in Medicaid rates but the same facilities that have historically focused on reimbursement optimization will remain with elevated and viable Medicaid rates while disadvantaged and smaller facilities will continue to flounder. The paper closes with suggestions for states to consider in rate restructuring to include incentivizing desirable outcomes over punitive standards for non-compliance; considerations, add-ons, or incentives for smaller and less efficient facilities with high fixed costs spread over smaller resident populations to maintain local access in underserved communities; address distortions caused by different types of providers (single site vs. hospital based vs. life plan community) and by variable payer mixes (Medicare Advantage penetration, availability of Medicare part B subsidy, local ACOs, Medicaid occupancy). Read the full paper [here](#).

**CMS Hosts Quarterly National Stakeholder Call with the CMS Administrator on October 17, 2023.** Join the Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure and CMS Principal Deputy Administrator and Chief Operating Officer, Jon Blum, and other members of the leadership team, October 17 at 1 p.m. ET for an update on CMS's recent accomplishments and how their cross-cutting initiatives are advancing [CMS' Strategic Plan](#). Click [here to RSVP](#).

**Tell Congress: Let's Get Nursing Home Staffing Right and Support HR 5796!** On October 3, LeadingAge posted an [Action Alert](#) to ask members and all aging services stakeholders to ask their member of the House to support and cosponsor [HR 5796](#), the Protecting Rural Seniors Access to Care Act (Fischbach (R-MN)). The bill, if enacted, would prohibit CMS from implementing its proposed staffing mandate and establish an advisory committee on the nursing home workforce. The Action Alert further asks members of the Senate to introduce a companion measure. LeadingAge is appealing to all members across the continuum to take action and make sure our voice is heard. Mandating that nursing homes hire 90,000 new staff will make it even harder for home health, hospice, home care, assisted living, and other provider types and settings to hire nurses and frontline staff. More details on the proposed bill are included in this [press release](#) from Representative Fischbach.

**Bill Would Prohibit CMS Implementation of Proposed Staffing Rule.** In response to CMS's proposed staffing rule, Rep. Michelle Fischbach (R-MN) introduced the [Protecting Rural Seniors Access to Care Act](#) on September 29. "The Protecting Rural Seniors Access to Care Act will keep CMS from implementing this rule until it can prove it will not result in the closure of skilled nursing facilities, will not harm patient access, and will not make workforce shortage issues worse in areas that are already struggling. I am proud to introduce this legislation and will continue to fight for the strength of our rural communities," Rep. Fischbach said in a [statement](#). The bill, [HR 5796](#), would prohibit the HHS Secretary from implementing the proposed rule and create a 13-member federal advisory committee on the nursing home workforce that must report annually to the Administration and congressional committees of jurisdiction. The annual report must include an assessment of the nursing home workforce in rural and underserved areas, an analysis of nursing home regulations and their effect on the nursing home workforce, and recommendations for the HHS Secretary on how to strengthen the nursing home workforce. Rep. Fischbach is a member of the House Committee on Ways and Means, which has jurisdiction over Medicare. Rep. Greg Pence (R-IN) is the bill's original co-sponsor. Rep. Pence is a member of the House Committee on Energy and Commerce, which has broad jurisdiction over Medicaid public health. The bill has been referred to both Committees for consideration. LeadingAge continues to ask aging services stakeholders [to tell CMS to get the proposed rule right](#).

**Technical Updates Re: SFF Nursing Home Program** CMS posted technical corrections related to the Special Focus Facility program on September 27 in [this QSO memo](#). The technical corrections are generally language changes and clarifications and no policy changes have been made; however, clarifications may change how you understand existing policy so it will be important to review these updates if you are a SFF or SFF candidate.

**LeadingAge Bronze Partner CLA Publishes 38<sup>th</sup> SNF Cost Comparison and Industry Trends Report.** The report shows through data, charts and narrative how SNFs are performing on operating margins, occupancy, staffing and other metrics. Key takeaways include: without public health emergency funding, median SNF operating margins are negative 3.6% but vary considerably among states; occupancy levels remain below pre-pandemic levels by roughly 13%; direct care nursing expenses have been driven by

agency use increasing \$3B from 2021 -2022 and show annual nursing wage growth over past 4 years. There are several data points in the report could be helpful in drafting comments to CMS on the proposed staffing ratios. The report can be downloaded from the CLA website at: [https://www.claconnect.com/-/media/files/reports/38th-snf-cost-comparison-and-industry-trends-report.pdf?utm\\_campaign=SNF%20Cost%20Comparison%20Report&utm\\_medium=email&\\_hsmi=276225659&utm\\_content=276225659&utm\\_source=hs\\_automation](https://www.claconnect.com/-/media/files/reports/38th-snf-cost-comparison-and-industry-trends-report.pdf?utm_campaign=SNF%20Cost%20Comparison%20Report&utm_medium=email&_hsmi=276225659&utm_content=276225659&utm_source=hs_automation).

**New CDC Resources for LTC Settings.** CDC shared links to key resources on respiratory viruses for LTC providers, including:

- **Viral Respiratory Pathogens Toolkit for Nursing Homes -** <https://www.cdc.gov/longtermcare/prevention/viral-respiratory-toolkit.html>
- **Preventing Transmission of Viral Respiratory Pathogens in Healthcare Settings -** <https://www.cdc.gov/infectioncontrol/guidelines/viral/prevent-viral.html>
- **Long-Term Care Quick Start Guide -** <https://drive.google.com/file/d/1ciB8-TQ126bUVksFHW83w9JtdE2FsdYJ/view?usp=sharing>
- **Long-Term Care Vaccination FAQs –** <https://drive.google.com/file/d/1hwngSuUW9VyFK4QON4EXIKH4yo7rNOKD/view?usp=sharing>
- **Bridge Access Program Communications Toolkit for Partners** The Bridge Access Program Communications Toolkit for Partners includes promotional materials, [program resources](#), and [social media assets](#). For questions, visit [www.cdc.gov/vaccines/programs/bridge/](http://www.cdc.gov/vaccines/programs/bridge/) or email [PolicyISDBridge@cdc.gov](mailto:PolicyISDBridge@cdc.gov)
- **U.S. COVID-19 Vaccine Product Information with job aids for healthcare providers -** <https://www.cdc.gov/vaccines/covid-19/info-by-product/index.html>
- **Potential vaccination partners:**
  - eTrueNorth - [Connect | eTrueNorth](#)
  - Passport Health - [Onsite Flu Clinics in Your Workplace | Passport Health \(passporthealthusa.com\)](#)
  - Concentra - [Protect your workforce from the flu - Concentra](#)
  - Eden Health - [Onsite Flu Vaccinations Clinic for Employees | Eden Health](#)
  - Total Wellness - [Flu shot clinics – TotalWellness \(totalwellnesshealth.com\)](#)
- **Additional Infection Prevention and Control Resources for LTCFs and Nursing Homes**
  - **Masking Signage:** [https://www.cdc.gov/infectioncontrol/pdf/projectfirstline/Long-Term-Care-Masking-Sign\\_2-508.pdf](https://www.cdc.gov/infectioncontrol/pdf/projectfirstline/Long-Term-Care-Masking-Sign_2-508.pdf)
  - **Project First Line Resources:** <https://www.cdc.gov/infectioncontrol/projectfirstline/healthcare/print.html>

**Last Week's Nursing Home Weekly Update.** Here is the September 29, 2023 [Nursing Home Update](#).