



LPC Weekly Report

Friday, October 6 2023

**Highlights for LPCs:**

**LPC Annual Meeting Session Guide.** Headed to Chicago, and wondering what sessions might be most applicable to the life and times of an LPC? Good news! We've hand-picked a variety of sessions that might just be what you're looking for. Check out our newly-released [LPC AM Session Guide](#), designed to help you find the sessions most relevant to the LPC leader. You can read the full descriptions, and see all sessions offered at each time slot, on the conference [website](#). Come see what our colleagues, fellow members and business partners are offering by way of expert insight, strategic forecasting, and road-tested experience. Questions? Ask Dee ([dpekruhn@leadingage.org](mailto:dpekruhn@leadingage.org)).

**LPC Member Network Materials Available.** The [recording](#) and [handouts](#) from last week's LPC September Network meeting are now available; listen in for a dynamic discussion on market trends and financial forecasting for LPCs from Ziegler, Greystone and CLA experts. A summary article will be forthcoming. Save the Date: the October LPC Member Network meeting will be on Thursday, October 19 at 2:00 p.m. ET, and will focus on the operations and strategy of dining services programs.

**CAAH Member Network Meeting.** Join us for the September CCAH Member Network meeting next Thursday, October 12 at 2:30 p.m. ET. This month's topic of conversation will be on coordinating care and transitions for CCAH members who live in or are moving to a CCRC. All LeadingAge provider members are welcome; email Dee ([dpekruhn@leadingage.org](mailto:dpekruhn@leadingage.org)) to receive an invitation.

**Workforce & Policy News:**

**DOL Submits Final Independent Contractor Rule to White House for Review.** A final rule that will revise the federal framework for determining whether a worker is an employee or an independent contractor is now under review by the White House Office of Management and Budget (OMB). The U.S. Department of Labor (DOL) issued a proposed rule on this subject in October 2022, accepted comments through mid-December, and submitted the final rule to OMB on September 28, signaling that it has completed its work. As proposed, the rule would rescind a 2021 Independent Contractor Status rule and, among other changes, restore a "totality-of-the-circumstances" analysis to determining whether a worker is economically dependent upon an employer for work, versus being in business for themselves, under the Fair Labor Standards Act (FLSA). This standard is important because the FLSA's minimum wage and overtime pay protections do not apply to independent contractors, and many observers expect the new rule to result in more individuals being classified as employees than is the case under the current rule. It is not known when the final rule will actually be published, but OMB review is the final step in the rulemaking process. We will monitor closely for release of the final rule and provide analysis for members when it emerges.

**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).

### **Advocacy & Hill News:**

**LeadingAge WIN! Congressional Letter Supports LeadingAge position on Special Focus Program sent to OMB and CMS.** On October 4, Representatives Van Duyne (R-TX), Blumenauer (D-OR), Wenstrup (R-OH), and Panetta (D-CA) sent a [letter](#) to CMS Administrator Brooks LaSure and OMB Director Shalanda Young about CMS's proposal around the hospice special focus program. The Congressional offices noted that the algorithm as proposed would not succeed in targeting the poorest performing hospices which is the goal of the proposed SFP. ***The letter highlights concerns LeadingAge raised in [our comment letter regarding the overweighting of CAHPs and issues with existing survey data](#).*** The letter asks that CMS revisit the algorithm with the Technical Expert Panel (TEP) based on these concerns and give hospices a preview prior to the formal launch of the program. Since the SFP was created via the HOSPICE Act, adding the Congressional voice to the mix of those asking for reform of the proposal is critically important and we thank Representatives Van Duyne, Blumenauer, Wenstrup, and Panetta for voicing their concerns and their support for an accurate program. LeadingAge supports the idea of the SFP but if it is not done right, we fear that beneficiaries would actually be harmed because they might end up selecting poorer performing hospices if the wrong hospices end up on the eligible list or in the program. See more information on the letter [here](#) and our press statement [here](#).

**LeadingAge Advocacy WIN! HUD Awards \$160M for New Section 202 Homes.** On October 2, HUD announced \$160.1 million in awards to 25 nonprofit organizations, including 11 LeadingAge members, to build and preserve affordable housing for older adults with very low incomes through the Section 202 Supportive Housing for the Elderly program. This is the third round of awards since Congress revived funding for the program in 2018 after several years of zero funding for new Section 202 homes. LeadingAge championed advocacy efforts to bring the Section 202 program back because of its unique attributes: households' incomes are never too low to live in Section 202 housing; rent for each household is based on that household's income and fluctuates as necessary to continuously provide affordable, stable housing; about half of existing and all newly awarded Section 202 communities have service coordinators who connect residents to the services and supports needed to successfully age in community. "HUD's Section 202 Supportive Housing for the Elderly program, unique for its focus on older adults and a demonstrated success in ensuring positive outcomes, is a program we fought hard to revive. We're thrilled that these funds are being distributed, and proud to support our members around the country who serve low-income older adults in affordable housing communities," said Katie Smith Sloan, president and CEO, LeadingAge, said in our [statement](#). Read HUD's press release [here](#).

**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.

**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.

**House Leadership in Flux.** On October 3, Kevin McCarthy (R-CA) was removed as Speaker of the House through a motion to vacate. As part of his negotiations to become Speaker in January, Former Speaker McCarthy changed the rules to allow for a motion to vacate to be brought by any one Member of the House. Rep Matt Gaetz (R-FL) brought this motion and the role of the Speaker of the House was vacated at around 5 p.m. ET on Oct 3 by majority vote. Soon after, Former Speaker McCarthy announced he would not run again. Rep Patrick McHenry (R-NC) is serving as speaker pro tem but he cannot bring any legislation to the floor in this position. Committee work can continue when the House is in session. Representatives Scalise (R-LA) and Jordan (R-OH) have announced they will run for Speaker. The Speaker elections are currently expected to start on Wednesday Oct 11; the House is in recess until Tues Oct 10. This is more than just political positioning in Washington, DC. LeadingAge members need the House to act – for instance at the approaching end of the Continuing Budget Resolution and on many other bills that help older people get the housing, care, and services they need.

**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.

### **Medical and COVID News:**

**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>