



Nursing Home Weekly: Recap of LeadingAge Updates

September 13, 2024

National Policy Pulse Call. LeadingAge’s members-only briefing and analysis call with our experts, “National Policy Pulse,” happens every Monday at 3:30 p.m. ET. Register for the calls (registration required even if you were registered for the previous 3:30pm policy update calls) [here](#). Your registration will keep you on the list for all calls in 2024, and we’ll send a new registration link to members for calls in 2025 so you never miss a beat.

State of Texas Requests Consolidation of Lawsuits Challenging CMS Minimum Staffing Standard: As we shared yesterday, on September 10 the State of Texas filed an [unopposed motion](#) seeking to consolidate its lawsuit challenging the CMS staffing standard, which the State filed August 14, into the suit in which LeadingAge is a co-plaintiff. Among other factors, the motion notes that both suits are filed in the U.S. District Court for the Northern District of Texas, and that there is substantial similarity between the facts and legal issues in both lawsuits. The State’s motion proposes that our first-filed suit would be the lead case and that the parties would adhere to the schedule already in place for submitting briefs, which would preserve the existing, court-approved timeline. The court has not yet ruled, but we have updated our [Nursing Home Staffing Mandates Serial Post](#) to reflect the filing.

LeadingAge to CMS: Eliminate Unnecessary and Duplicative Vaccination Reporting. In a September 9 letter to the Centers for Medicare & Medicaid Services (CMS), LeadingAge urged CMS to take prompt action to adjust required reporting of COVID vaccinations of residents and healthcare personnel. LeadingAge initially addressed this issue in a letter to CMS on May 31 and advised CMS not to delay any further as we approach respiratory virus season. Read the letter [here](#).

Who Are You? Why Are You Here? Nursing Home Site Visits. LeadingAge has heard from several nursing home members lately about unannounced visits being conducted by CMS contractors. These visits are related to provider enrollment and revalidation, though this may not always be immediately clear. [Read on to learn more](#) about these visits and what you can do.

LeadingAge Partners with HHS on Risk Less. Do More. Campaign. As cold and flu season approaches, LeadingAge is [partnering with the Department of Health and Human Services](#) (HHS) on a national initiative to reduce severe illness from common respiratory viruses in at-risk populations—including older adults age 65+ and those who care for them. Staying up to date with shots lowers the risk of getting sick with a respiratory infection, and we encourage members to check out the [Risk Less. Do More. campaign information](#) and use the [member toolkit](#) to help spread the word—and not the viruses! [Learn more and access the toolkit.](#)

LeadingAge Releases “The Immigration Imperative” paper. Aging service providers are seeking new and innovative approaches to strengthen and build America’s long-term care workforce—including reforms to our outdated and inefficient approach to legal immigration. This issue is one of the most critical for LeadingAge members and we are thrilled to announce the release of our latest white paper, [The Immigration Imperative](#). This paper offers a timely and relevant overview of current issues followed by practical recommendations on policy changes that will help to increase the pipeline of foreign-born long-

term care workers in the U.S.—and create a foundation for them to thrive in our member communities. Our press released on this important LeadingAge product and priority can be found [here](#).

Former NY Gov. Cuomo Testifies Before Congress on COVID nursing home policies. Former New York Governor Andrew Cuomo testified before the House Select Subcommittee on the Coronavirus Pandemic at a September 10 [hearing](#) focused on his administration's handling of the COVID-19 pandemic and its impacts on nursing home residents. The Subcommittee has been engaged in an extensive and ongoing investigation regarding the Cuomo administration's March 2020 directive requiring nursing homes to admit COVID-infected patients. Further, a [report](#) issued by the Subcommittee's Republican members on September 9 presented interim findings that Mr. Cuomo and his top aides influenced the conclusions of a report from the State Health Department in an effort to deflect blame for deaths in nursing homes. Subcommittee Chairman Brad Wenstrup (R-OH) was clear that the Subcommittee intends to continue its investigation. In his opening statement, Chairman Wenstrup [announced the issuance of a subpoena](#) to New York Governor Kathy Hochul, claiming documents pertaining to Mr. Cuomo's March 2020 directive are still be withheld.

In another notable moment during the hearing, Ranking Member Raul Ruiz (D-CA) [announced](#) legislation to strengthen infection control and prevention efforts in nursing homes across the nation. According to Rep. Ruiz's announcement, the "Safer Nursing Homes Act" would make new, robust investments in the Centers for Medicare and Medicaid Services' (CMS) Survey and Certification efforts while making necessary reforms to ensure that comprehensive, sustained funding continues to be available for these oversight activities. LeadingAge staff will assess Rep. Ruiz's bill and will continue to monitor the Subcommittee's activities as well as any other legislation its members introduce.

SAFER Nursing Homes Act Introduced in U.S. House of Representatives. Representative Raul Ruiz, M.D. (D-CA), Ranking Member of the Select Subcommittee on the Coronavirus Pandemic, [announced](#) at a September 10 hearing the introduction of the *Sustained Allocations For Evaluations and Reviews of Nursing Homes Act*, or the *SAFER Nursing Homes Act*. This bill would increase CMS's survey and certification funding for nursing homes to \$492 million in Fiscal Year 2025 (or 21% over current funding levels) and then shift funding for nursing home surveys from discretionary to mandatory funding beginning in Fiscal Year 2026. [Every Democratic member of the Select Subcommittee](#) joined Ranking Member Ruiz in introducing the *SAFER Nursing Homes Act* as an original cosponsor. The underlying proposal, which was included in the President's Fiscal Year 2025 Budget Request to Congress, would help reduce backlogs and improve the survey process. LeadingAge supports these fundamental goals and the [SAFER Nursing Homes Act](#).

CMS Released List of 743 Hospitals Required to Participate in TEAM. The Centers for Medicare and Medicaid Services released the list of hospitals which will be required to participate in the Transforming Episode Accountability Model (TEAM) bundled payment model starting January 1, 2026. This program, which was finalized August 1, 2024, is a 5-year mandatory model to incentivize coordination among surgical care providers as well as the services provided in the 30 days following surgery. The model would start in January 2026 and end in December 2030. TEAM would initially focus on lower extremity joint replacement, surgical hip and femur fracture treatment, spinal fusion, coronary artery bypass graft, and major bowel procedures. The list published by CMS in September includes 743 hospitals across 187 Core Based Statistical Areas (CBSAs). Skilled nursing facility care, home health services, as well as hospice are included as part of the bundle. LeadingAge expects TEAM to impact care delivery patterns and expectations of post-acute care providers. More information on the model can be found [here](#) and the full list of hospitals required to participate is available in the downloads section of the page. LeadingAge is finalizing a TEAM 101 QuickCast to learn more that should be available in the coming weeks.

LeadingAge Submits Comments on Proposed Physician Fee Schedule for CY2025. On September 9, LeadingAge submitted comments to the Centers for Medicare and Medicaid Services (CMS) on the proposed CY2025 Physician Fee Schedule. Our letter supported CMS proposals relating to caregiver training services, including proposals to establish new coding for direct caregiver training services and individual behavior management caregiving training services, and proposals to include these new codes, along with certain other caregiver training codes, on the Medicare Telehealth List on a provisional basis. These policies reflect the critical role that informal caregivers play as part of the interdisciplinary teams that support older adults.

We also offered suggestions for additional flexibility in the delivery of Community Health Integration (person-centered planning, health system coordination, and facilitating access to community-based resources to address unmet social needs) and Principal Illness Navigation services (designed to help people with Medicare who are diagnosed with a serious, high-risk disease identify and connect with appropriate clinical and support resources), which CMS first established in 2024, to provide additional opportunities for aging services providers.

CMS also included proposals relating to the Medicare Shared Savings Program (MSSP). LeadingAge supported a proposal to expand access to pre-paid shared savings to existing Accountable Care Organizations and recommended a change relating to how such dollars could be used. We also offered comments relating to the MSSP for CMS' future consideration, with suggestions for how the model could evolve to further engage and create opportunities for aging services within this accountable care model. Read [our comment letter here](#).

UHC Sending Mixed Messages on Application of on New Therapy Prior Authorization Policy. LeadingAge [reported](#) on the new United Healthcare and Optum policy requiring prior authorization for outpatient therapies including physical therapy, occupational therapy, and speech therapy that took effect on September 1, 2024. At that time, we noted this policy does NOT apply to skilled nursing facilities and home health agencies but that SNFs and HHAs must continue to follow any existing prior authorization requirements for these providers were not impacted. Some members have reported to LeadingAge that when they contact UHC on the matter they are receiving mixed messages stating that SNFs and HHAs must also follow the new policy which clearly does not identify these provider types as subject to the new policy. While we maintain that the UHC policy does not list SNFs or HHAs as covered entities, members should evaluate whether it might be prudent to secure prior authorizations in the short term for these services to increase the likelihood of future payment for the service. LeadingAge will reach out to UHC to see if we can get clarification on the policy and ensure that UHC provider services is accurately conveying it to members.

UHC Gold Card Program Begins October 1, 2024, But Expected to Have Little Impact on SNFs and HHAs. United Healthcare (UHC) and Optum announced it would be implementing a new gold card program on October 1, 2024, where it identifies physicians and practices that they deem to be compliant with evidence-based practices. More details were recently shared that make it appear that it will only apply to physician practices and few, if any, procedures in SNF and home health settings will be impacted. Gold card physicians will not be required to submit prior authorization requests for the select list of procedure codes but will still need to submit advance notice of the procedure to the relevant UHC health plan through the provider portal. Providers that deliver a service under this program will be able to confirm the procedure is approved. More details about the program can be found on the [Program main page](#), [Procedure Codes that Gold Carding will apply to](#), and in the [Gold Card Program FAQs](#).

Last Week's Recap Update. Here is the September 6, 2024 [Nursing Home Update](#).