



Nursing Home Weekly Recap

November 15, 2024

Nursing Home Network Call: Tuesday, November 26. The next meeting of the Nursing Home Network will take place on Tuesday, November 26 at 2 p.m. ET. We will review the latest nursing home updates from October and November, followed by time for feedback and discussion among members. The Nursing Home Network meets on the last Tuesday of each month and is open to all LeadingAge provider members. Register for the Network [here](#) using your LeadingAge login.

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 [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.

Kennedy Tapped for HHS Secretary. On November 14, President-elect Donald Trump said he has selected Robert F. Kennedy Jr. to be Secretary of the Department of Health and Human Services. "For too long, Americans have been crushed by the industrial food complex and drug companies who have engaged in deception, misinformation, and disinformation when it comes to Public Health," President-elect Trump posted on X. "The Safety and Health of all Americans is the most important role of any Administration, and HHS will play a big role in helping ensure that everybody will be protected from harmful chemicals, pollutants, pesticides, pharmaceutical products, and food additives that have contributed to the overwhelming Health Crisis in this Country." Hear about the election's impact on aging services on our November 18 National Policy Pulse call. Register for the call [here](#).

Legal Challenges to CMS Staffing Standard: Litigation Updates. The next few weeks will be an active period for the lawsuits challenging the CMS nursing home staffing standard. (1) In the Texas case in which LeadingAge is a co-plaintiff, November 15 is the deadline for the Department of Justice, on behalf of HHS and CMS, to file the government's response to our plaintiffs' motion for summary judgment and the government's own cross-motion for summary judgment. (2) As we reported earlier, the LeadingAge state affiliates and state Attorneys General that filed a separate challenge to the CMS rule in an Iowa federal court filed a motion for a preliminary injunction on October 22. The judge presiding over the case has entered a scheduling order relating to the motion: defendants will file their response to the plaintiffs' motion by November 21; plaintiffs may file a reply in support of their motion by November 27; and the court will hold a hearing with oral arguments from the parties on the morning of December 5. Keep an eye on the [serial post](#) to keep up with the latest developments concerning the staffing standard.

HICPAC Meeting November 14-15. The Healthcare Infection Control Practices Advisory Committee (HICPAC) to the Centers for Disease Control & Prevention (CDC) met for a public meeting on November 14 and 15. The meeting was livestreamed, with opportunity for public comment. Discussion included updates from the isolation precautions and healthcare personnel guidelines workgroups and a vote on recommendations to CDC on these topics. LeadingAge will post a recap of the meeting in the coming days. Remember, LeadingAge members can share feedback with HICPAC at any time. [Learn more here](#).

Appeals Processes Relating to Hospital Observation Status: Awaiting Additional CMS Guidance.

LeadingAge is continuing to monitor for further guidance from CMS concerning implementation of the [Final Rule](#) establishing appeals processes for certain Medicare beneficiaries who are initially admitted as hospital inpatients but are subsequently reclassified as outpatients receiving observation services during their hospital stay. The purpose of the rule is for CMS to comply with a court order issued in the case *Alexander v. Azar*, a nationwide class action case that established the right of patients to appeal such changes of status. As required by the court order, a retroactive right of appeal will be available to Medicare beneficiaries meeting certain criteria, and both “expedited” and “standard” appeals processes will apply prospectively. CMS anticipates these processes will be available in early 2025. This [LeadingAge article](#) provides analysis of the final rule, and we will work with CMS to gather additional information about how the processes will work and to identify and address practical issues that arise for providers.

CMS Final 2025 Physician Fee Schedule: Summary of Key Provisions. As we reported on November 4, the Centers for Medicare & Medicaid Services (CMS) recently issued its final Calendar Year 2025 Physician Fee Schedule rule, which updates rates and policies relating to Medicare Part B services delivered in a variety of settings. The final rule includes policy changes that LeadingAge supports, including the establishment of payment for new caregiver training services, as well as certain Medicare telehealth policies. This [LeadingAge article](#) summarizes key aspects of the final rule.

CMS Announces 2025 Medicare Premiums and Deductibles. On November 8 the Centers for Medicare & Medicaid Services (CMS) announced 2025 premiums, deductibles, and coinsurance amounts for Medicare Part A and Part B, among other information. (1) Medicare Part B Premiums/Deductibles: The standard monthly premium for Medicare Part B enrollees will be \$185.00 for 2025, an increase of \$10.30 from \$174.70 in 2024. The annual deductible for all Medicare Part B beneficiaries will be \$257 in 2025, an increase of \$17 from the annual deductible of \$240 in 2024. (2) Medicare Part A Premiums/Deductibles: The Medicare Part A inpatient hospital deductible that beneficiaries pay if admitted to the hospital will be \$1,676 in 2025, an increase of \$44 from \$1,632 in 2024. In 2025, beneficiaries must pay a coinsurance amount of \$419 per day for the 61st through 90th day of a hospitalization (\$408 in 2024) in a benefit period and \$838 per day for lifetime reserve days (\$816 in 2024). For beneficiaries in skilled nursing facilities, the daily coinsurance for days 21 through 100 of extended care services in a benefit period will be \$209.50 in 2025 (\$204.00 in 2024). See [this CMS Fact Sheet](#) for additional information, including income-based adjustments to Part B premiums and the Medicare Part D income-related monthly adjustment amounts.

Proposal to Change Marijuana Schedule Moving Slowly. The timeline for the Drug Enforcement Administration (DEA) to complete its rulemaking relating to marijuana may take longer than expected, given a recent development. In May, the DEA issued a regulatory proposal to transfer marijuana from Schedule I to Schedule III of the Controlled Substances Act (CSA). In August, following the completion of a public comment period, the DEA published [notice](#) that it would conduct a hearing before an administrative law judge (ALJ), beginning December 2, for review of the proposal. [Learn more and read the LeadingAge comment letter on proposed rescheduling here.](#)

LeadingAge Joins Coalition Letter to Expand Veterans' Options for Long-term Care. As the country turned its attention this week to honoring our nation’s veterans, LeadingAge [joined five associations on November 13 in sending a letter](#) to Congressional leaders requesting that the House take up and pass H.R. 8371, *The Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act*.

Included in this bill are the key provisions of the *Expanding Veterans' Options for Long Term Care Act*, which would authorize the Veterans Administration to offer assisted living settings for aging and disabled veterans who would otherwise require more costly nursing home care. LeadingAge has been working alongside our coalition partners to advance policies that provide additional care and supports for veterans. This pilot program will give veterans additional options for how and where they can get the long-term care, as well as inform future policy decisions to meet the growing care needs of our nation's aging veterans.

MedPAC To Analyze MA Network Adequacy including Interest in PAC Access. The Medicare Payment Advisory Commission (MedPAC) initiated work on Medicare Advantage (MA) plan provider networks at its November 8 meeting acknowledging concerns LeadingAge and other providers have raised in recent years. During the meeting, the Commission fleshed out the goals for the research and analysis Commission staff will undertake on this topic. [Read more here](#). LeadingAge will continue to track this work and provide input on member concerns.

LeadingAge Weighs in on CMS Plans to Collect and Audit MA Plan Data on Internal Coverage Criteria. CMS issued another proposal to collect data from Medicare Advantage (MA) plans to assist in enforcing the CY2024 MA rules governing under what circumstances MA plans can use internal coverage criteria (ICC) to make coverage determinations. On November 12, LeadingAge offered both support for this data collection effort and feedback about how it could be improved. The proposal outlines a list of items that all plans will be required to report to CMS on ICC and a more comprehensive set of information that select plans would be required to submit as part of an audit of ICC. LeadingAge supports this effort to ensure these ICC are only being used limitedly and when appropriate to determine access to Medicare services. It is not clear when this new data collection effort will be initiated but we encouraged CMS to implement beginning January 1, 2025. To read our full comment letter, click [here](#).

UHC Provides Further Clarification on Prior Auth Requirements for Outpatient Therapies. United Healthcare provided further guidance on its controversial September 1 implementation of a new prior authorization requirement for physical, occupational, speech therapies and Medicare-covered chiropractic services in its many of its Medicare Advantage products. While the [original notice](#) indicated that these new requirements did not apply to therapies provided by skilled nursing facilities and home health agencies, confusion remained as UHC provider service representatives told these providers they needed to comply. The [new memo](#) provides new clarifications that for SNFs, it is the bill type that indicates whether a prior authorization is required. For example, no prior authorization would be required for bill types 22X and 24 X, for example, for a Part B nursing home. It also restates that the prior authorization requirements do not apply to out of network providers, nor enrollees in certain UHC plans like their United Healthcare Dual Complete. Members should review the new memo if they have questions, and reach out to United Healthcare Provider Services at 877-842-3210 if they have specific situations for which they are unclear whether this prior authorization requirement applies.

OIG Publishes Assessment on National Background Check Program for LTC. A [November 7 report](#) and [fact sheet](#) from the HHS Office of Inspector General (OIG) evaluated the effectiveness of the National Background Check Program, created under the Affordable Care Act, to enhance safety in long-term care settings. The report highlights effective measures and challenges with the program. [Read more here](#).

Congressional Watchdog Cites Ongoing Challenges with HHS's Leadership in Cybersecurity. The Government Accountability Office (GAO) [released a report](#) on November 13 highlighting the Department

of Health and Human Services' (HHS) ongoing challenges in carrying out its cybersecurity responsibilities as the lead federal agency for the healthcare and public health critical infrastructure sectors. The report noted the increased incidents of cyberattacks across the healthcare sector, including the February 2024 Change Healthcare ransomware attack that had widespread impacts on healthcare providers and patient care.

The GAO went on to highlight several recommendations that HHS has yet to fully implement to improve cybersecurity risk management. The recommendations include tracking the healthcare sector's adoption of cybersecurity practices that reduce ransomware-specific attacks; including medical devices and other operational technologies as part of HHS's risk assessments; and ensuring that the Centers for Medicare and Medicaid Services (CMS) maximizes collaboration with other federal agencies to provide consistent cybersecurity requirements across state agencies.

Although much of HHS's cybersecurity focus has been on hospitals, the Change Healthcare ransomware attack demonstrated the vulnerabilities that exist across the entire healthcare sector, including post-acute and long-term care providers. LeadingAge actively engaged with HHS to help members impacted by the Change Healthcare ransomware attack and is continuing to work with members, partners, and policymakers to strengthen and share [cybersecurity best practices](#).

CMMI Releases Report on Re-imagining Rural Health. On November 12, the Center for Medicare and Medicaid Innovation (CMMI) published [Re-imagining Rural Health: Themes, Concepts, and Next Steps from the CMS Innovation Center "Hackathon" Series](#). The report describes lessons learned from previous Innovation Center models focused on rural health and their application to recent model development, as well as potential areas the Innovation Center might explore to support rural communities. It also highlights themes and insights from the CMS Innovation Center-hosted [2024 Rural Health Hackathon](#). [Read more here](#). CMMI will host a Person-Centered Listening Session on November 20 on Improving Care Experience, Outcomes, & Equity in Rural Communities. This listening session will focus on access and delivery in rural health care, and key takeaways from CMS Innovation Center Rural Health Hackathons and a listener Q&A. Insights from this session will help inform the Innovation Center's strategy on addressing common rural health issues. [Interested individuals can register here](#).

LeadingAge LTSS Center Releases Report on Rural Aging Action Network. The Rural Aging Action Network (RAAN) is a national learning collaborative developed and led by Lutheran Services in America (LSA). Launched in 2022, the RAAN is designed to expand community-based services and supports in rural communities and ensure independence and choice for the older adults who live there. The LeadingAge LTSS Center @UMass Boston partnered with Lutheran Services in America to lead a two-year evaluation of the RAAN. Researchers assessed the RAAN's effectiveness, impact, and value as it mobilized whole communities to address gaps in the care of older adults.

A new report released in November 2024 provides lessons learned during the RAAN's development and implementation in rural communities across Minnesota, Montana, North Dakota, and South Dakota. The report is designed especially for organizations serving rural older adults or seeking to expand their reach into rural communities. The [report](#) provides an overview of the RAAN model, outlines seven steps involved in establishing a RAAN, and explores how the RAAN empowers older adults and advances equity and engagement among diverse populations.

Join the LTSS Center on November 21 for an interactive webinar that will help you better understand the lessons and best practices that emerged as the LSA RAAN Collaborative worked to cultivate caring communities that address the unique needs of rural older adults. [Register today.](#)

Nonprofit Nursing Homes Financially Challenged Post-PHE Funds. On November 4, the journal Health Affairs published the study, [*“Loss of Public Health Emergency Funds Challenges the Financial Viability of Nursing Homes, Especially Not-For Profit Facilities.”*](#) The researchers analyzed financial and facility data from Medicare Cost Reports to assess how COVID-19 public health funding, including the Provider Relief Fund and the Paycheck Protection Program, allowed nursing homes to remain profitable through 2021. The study also examined trends impacting nursing homes' financial performance, such as occupancy rates and staffing levels. [Read more here.](#) Long-term care financing has long been a policy goal for LeadingAge, and the findings underscore the current financial instability within nursing homes. The LeadingAge [policy platform](#) includes long-term services and supports financing reform and we will continue to advocate for financing reform as we begin a new Administration and Congress.

ASPE Report on Bereavement and Grief Services in the United States. The Assistant Secretary for Planning and Evaluation (ASPE) published a report on November 4, 2024, presenting findings of an environmental scan and semi-structured interviews around bereavement and grief services in the United States. The final report released by ASPE reviews key points from the literature review and key contributor interviews. [Read more here.](#)

Office Hours November 15: Managing Substance Use Disorders in Nursing Facilities. The Center of Excellence for Behavioral Health in Nursing Facilities (COE-NF) will host virtual office hours on November 15 to address providers' questions about managing substance use disorders in nursing homes. Subject matter experts Dr. Jenn Azen and Dr. Swati Gaur will address questions and provide practical solutions tailored to the needs of nursing home staff. Register [here.](#)