



## Home Health and Hospice Weekly: Recap of LeadingAge Updates

April 22, 2022

**CMS HCBS Webinar: “How States Can Assist Providers in System Transformation to Achieve Settings Compliance.”** LeadingAge staff attended a webinar that highlighted the importance of States’ support to providers for compliance with HCBS settings criteria as they work together to meet the March 17, 2023, compliance date. Additional notable points include the importance of maintaining key HCBS flexibilities used during the PHE, such as expanded use of technology, as well as the use of fiscal strategies, such as value-based payments, and use of section 9817 ARPA funds to increase HCBS provider capacity. Providers who require outside support will be able to apply for a special one-time payment to assist with costs of compliance with HCBS settings regulation. See the PowerPoint PDF with contact information for CMS technical support [here](#)

**OIG Adds Electronic Visit Verification to Work Plan.** In April, OIG [announced](#) plans to conduct additional audits on Electronic Visit Verifications (EVV) along with a number of other Medicaid specific audits, evaluations, and inspections. As part of the 21<sup>st</sup> Century Cures Act, all states had until January 1, 2020, to implement EVV for personal care services (PCS). States have until January 1, 2023, to implement EVV and for home health services (HHSC). In January 2021, CMS granted a 1-year extensions for most states to meet the EVV requirements for PCS. There is concern that once implemented, EVV could increase the risk that Medicaid beneficiaries' needs are not being met, potentially compromising their health and safety. OIG’s objectives in auditing EVV will be to determine if a state: (1) has implemented an EVV system in accordance with Federal and State requirements, and (2) has developed policies and procedures when using EVV to ensure that Medicaid beneficiaries receive their required in-home services.

**CMS Releases 2020 Medicare Current Beneficiary Survey Data Brief.** This Early Look Data Brief [looks](#) at preliminary data from the Medicare Current Beneficiary Survey (MCBS) for community-dwelling Medicare beneficiaries. The Early Look presents measures that are not available in the CMS administrative data, including beneficiary health status and functioning, access to care, satisfaction with care, and general demographics including language spoken at home. The full MCBS will be released in summer 2022. Quick highlights:

- The majority of Medicare beneficiaries living in the community are White non-Hispanic, between 65 and 84 years of age, and live in English-speaking households.
- Over three-quarters of Medicare beneficiaries living in the community report good, very good, or excellent health. Approximately 81 percent report the same or better health compared to one year ago.
- Almost half of Medicare beneficiaries living in the community report at least one disability. Around one-quarter report difficulties with walking or climbing stairs.
- Most Medicare beneficiaries living in the community report no trouble or delays in accessing health care and are satisfied with health care quality, ease of access, and cost.

**MLN Clarifies Hospice Aggregate & Inpatient Caps Under VBID.** In an MLN article this week, CMS [clarifies](#) that Medicare patients enrolled in a Medicare Advantage plans that are participating in the Value-Based Insurance Design (VBID) Model's Hospice Benefit Component **cannot** be included in a hospice's aggregate & inpatient caps. Medicare Advantage plan payments for these patients should be excluded when calculating hospice aggregate and inpatient cap payments for January 1, 2021–December 31, 2024, the performance period of the Model component. Not sure if your patients fall into this category? Visit the [VBID Model Hospice Benefit Component Billing & Payment](#) webpage and click the link under “Step Three” for a list of plan benefit packages (PBPs) participating in the Hospice Benefit Component of the VBID Model.

**CMS Corrects Home Health Claims Processing Policy and 60 Day Calculation Inconsistency.** CMS issued a Change Request (CR) 12657 earlier this month modifying two claims processing processes.

- Removing the requirement to submit a Notice of Admission (NOA) before billing for home health denial notices. Before the implementation of NOA on January 1, 2022, every claim for home health period required the submission of a Request for Anticipated payment **except** billings for denial notice (TOB 320 reporting condition code 21). Due to a CMS oversight in the implementation of NOA, billing for denials were not excluded from the requirement to submit an NOA. The CR submitted this month will correct this error and providers will no longer be required to submit an NOA with billing for denials.
- Revising home health edit criteria to ensure Medicare systems calculate 60-day gaps in service consistently. Medicare Administrative Contractors identified a variance in how the 60-day gap in home health services is used to calculate coding for early and later home health periods and identifying early periods that should pay as a Low Utilization Payment Adjustment (LUPA) add-on. The CR changes the counting method used to identify LUPA add-on.

**ACL Forecasts New \$1 Million Direct Care Workforce Technical Assistance Center Grant Opportunity.**

As it seeks to advance capacity to recruit and retain a high-quality direct care workforce capable of meeting the growing needs that older adults and people with disabilities, the Department of Health and Human Services (HHS) Administration for Community Living (ACL) has posted a new grant forecast announcement in “grants.gov” for a “National Direct Care Workforce Technical Assistance Center” in fiscal year 2022. HHS requires agencies to provide a “forecasted opportunity” to let the public know of an agencies plans to issue a Notice of Funding Opportunity (NOFO). The forecasted opportunity for the new Direct Care Workforce Technical Assistance Center indicates the estimated NOFO post date will be April 29, 2022, and the estimated application due date will be June 29, 2022.

The discretionary project total funding level could range from \$1,200,000 to \$1,400,000. (HHS would likely not “forecast” publishing this announcement (including specific dates) if there weren't some likelihood it will happen.) [Here is the link](#), which is a “heads up.” Eligible entities include national nonprofit organizations, as well as state and local governments, faith-based and community organizations. We will share additional information on this new grant opportunity as it becomes available.

**OSHA Proposes Rule to Modify Tracking of Workplace Injuries and Illnesses.** OSHA recently published a [proposed rule](#) titled “Improve Tracking of Workplace Injuries and Illnesses.” [Here](#) is an article that provides a good summary and history of the proposal and several concerns that have been identified. Comments are due by May 31. OSHA is seeking to amend the occupational injury and illness recordkeeping regulation to require certain employers to electronically submit injury and illness

information to OSHA that employers are already required to keep under the recordkeeping regulation. OSHA proposes to amend its regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300, 301, and 300A to OSHA once a year.

OSHA intends to post the data from the proposed annual electronic submission requirement on a public website after identifying and removing information that reasonably identifies individuals directly, such as individuals' names and contact information. The full data submitted would also be available to the general public under a Freedom of Information Act request. Finally, OSHA is proposing to require establishments to include their company name when making electronic submissions to OSHA.

**FROM HHS: Mask Order:** CDC [released a statement](#) on masks in public transportation settings. To protect CDC's public health authority beyond the ongoing assessment announced last week, CDC has asked DOJ to proceed with an appeal in Health Freedom Defense Fund, Inc., et al., v. Biden, et al. It is CDC's continuing assessment that at this time an order requiring masking in the indoor transportation corridor remains necessary for the public health. CDC will continue to monitor public health conditions to determine whether such an order remains necessary. CDC believes this is a lawful order, well within CDC's legal authority to protect public health.

**Welcome to Meredith!** Meredith Chillemi joined our policy team today as the Director of Medicaid and HCBS Policy. Meredith is based in California and has great experience across our continuum and with Medicaid. We are so thrilled to have her on board.

**LeadingAge Article on Tips for Members on how to Prepare for the Next PRF Reporting.** Here is an [article](#) that summarizes the tips Nicole shared on today's Member Coronavirus call on ways to prepare for the next PRF reporting to avoid compliance issues and the need to return funds.

**Updated Quarterly OASIS Q&As.** CMS [released](#) April 2022 OASIS Q&A's. This document is updated on a quarterly basis and is intended to provide guidance on OASIS questions that were received by CMS help desks. As a reminder, responses may be time-limited and may be superseded by future CMS guidance. This quarterly guidance includes clarifications on the following items:

- RFA 8 – Death at Home: submitting OASIS when death occurs at home after one visit in a recertification period and completing RFA 8 OASIS after patient discharged from hospital observation stay.
- M2020/M2030 – Management of Oral Medications/Management of Injectable Medications: accounting for transportation required to get medications into the home when responding to M2020/2030 and accurately coding for assisted living facility residents when ALF staff must unlock medications.
- GG0130A – Eating: coding when patient needs encouragement for adequate food and fluid intake.

**Home Health OASIS and Star Rating Preview Reports Now Available.** Preview reports are now available on iQIES for the July 2022 Home Health Care Compare refresh. OASIS measure reporting will be based on the standard number of quarters. The July 2022 refresh is the first refresh which will resume reporting on all claims-based measures for the Home Health Quality Reporting Program. Due to the COVID-19 reporting exceptions, the claims-based measures are calculated excluding Q1 and Q2 2020 data. For additional information, please see the [HH QRP COVID-19 Public Reporting Tip Sheet](#) and the [Home Health Data Submission Deadlines](#) webpage.

**CMS releases strategies on health equity:** CMS released more details on the [health equity pillar](#) of their strategic plan. It covers activities and goals cross the agency.

**KFF releases comprehensive guide to PHE unwinding:** KFF released a one stop shop with regards to what PHE flexibility ends when. This does not just focus on Medicaid but flexibilities across various authorities. The resource can be found [here](#).

**White House releases Bipartisan Infrastructure Law Rural Playbook.** Today the White House updated its “Roadmap for Delivering Opportunity and Investments in Rural America” with a [Bipartisan Infrastructure Law Rural Playbook](#). The new legislation promises billions of dollars for high-speed internet, transportation, improvements to roads and bridges, clean drinking water, and modernized wastewater systems. The playbook is intended to help communities understand the available funding set aside for rural areas and how to apply for these federal dollars.

**HHS policy briefs on strategic approaches to social determinants of health (SDOH).** The HHS Office of the Assistant Secretary for Planning and Evaluation posted [three policy papers](#) that: explain why HHS has identified addressing SDOH as a major priority; describe HHS’s strategic approach and specific actions the Department is taking to address SDOH; and link how these actions build on evidence in the field on what works. Social determinants of health (SDOH) include factors such as housing, food and nutrition, transportation, social mobility, and environmental conditions as having significant impact on health outcomes. The policy briefs also present successful examples of current federal programs.

**Washington State Revamps LTC Insurance.** In 2019, Washington State passed a first-in-the-nation, publicly funded long term care insurance programs. According to a [report](#) by Kaiser Health News, Washington is looking to revamp this system before it even gets started. The payroll tax deduction used to fund the program will start in July 2023 instead of the planned January 2022 and benefits will become available in July 2026. California, Illinois, and Michigan are considering similar implementing programs.

**Untimely NOA Exception Requests Received in Error.** CGS [provided](#) additional guidance for home health agencies on what qualifies for an Untimely Notice of Admission (NOA) Exception. Home Health NOA must be submitted within five calendar days after the admission date. Since the implementation of the NOA on January 1, 2022, several system-related processing issues were identified. CMS and MACs have provided instructions for some of these processing issues. For reason code 32114, MACs clarified that agencies may request an exception for an untimely NOA submission by adding the modifier KX to expedite. However, CGS has identified a high volume of claims submitted with modifier KX in error which can further delay processing of claims. If an NOA is not filed timely, agencies may request an exception, which, if approved, waives the consequences of late filing. The four circumstances that may qualify for an exception are:

- Fires, floods, earthquakes or other unusual events that inflict extensive damage to the home health agency’s (HHA’s) ability to operate
- An event that produces a data filing problem due to a CMS or MAC system issue that is beyond the HHA’s control
- A newly Medicare-certified HHA that is notified of their certification after the Medicare certification date or is awaiting its user ID from the MAC
- Other circumstances determined by the MAC or CMS to be beyond the HHA’s control

**LeadingAge Submits Comments Medicaid RFI.** LeadingAge [submitted](#) comments on CMS' Request for Information RFI on Access to Coverage and Care in Medicaid & CHIP. This RFI is one of many actions CMS is taking to develop a more comprehensive access strategy in its Medicaid and CHIP programs. LeadingAge responded to questions on key areas of network adequacy and payment rates as well as workforce solutions.

**HRSA Adds a 5<sup>th</sup> Reporting Period for Phase 4 dollars and Other Key Dates:** A question members have often asked is when will they report on the Phase 4 funds they are receiving now. HRSA recently answered this by adding a 5<sup>th</sup> reporting period which will run from July 1 – September 30, 2023. Here is an [article](#) that discusses this new reporting period and other key PRF dates of which providers should be aware.

**CMS National Stakeholder Call.** CMS Administrator Chiquita Brooks-LaSure, along with Deputy Jon Blum and others from the CMS leadership team invite all CMS stakeholders to a quarterly National Stakeholder Call on April 26 from 3:30 – 4:30 PM ET. Here's the [link to RSVP](#); after you register you will receive a confirmation email with details on how to join the call. The Administrator uses these calls to update on the CMS strategic vision and accomplishments during the past quarter. This call may include long-term care related points as part of a more global CMS conversation.

**FROM HHS: First COVID-19 Diagnostic Test Using Breath Samples:** The U.S. Food and Drug Administration (FDA) [issued](#) an emergency use authorization (EUA) for the first COVID-19 diagnostic test that detects chemical compounds in breath samples associated with a SARS-CoV-2 infection. The test can be performed in environments where the patient specimen is both collected and analyzed, such as doctor's offices, hospitals, and mobile testing sites, using an instrument about the size of a piece of carry-on luggage. The test is performed by a qualified, trained operator under the supervision of a health care provider licensed or authorized by state law to prescribe tests and can provide results in less than three minutes.

**Careers in Aging Week.** Careers in Aging Week continues! Join LeadingAge, Argentum, ACHA/NCAL, and the Gerontological Society of America to promote professions in the field of long-term care. Check out the [Careers in Aging Week webpage](#) for turnkey tools such as flyers, posters, social media posts, Zoom backgrounds, PowerPoint templates, logos, videos, webinars, and more. We encourage you to participate (and be sure to include #CareersInAging in social media posts).