

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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THEY SAID IT:

"Right now, the cost of care us too high for seniors in nursing homes, for working families with young children, and the pay for care workers is too low, and that's why so many are leaving the whole endeavor," President Joe Biden in a Rose Garden signing ceremony for an executive order tying Medicare rates to staff turnover

"The executive order doesn't require any new spending. It's about making sure taxpayers will get the best value for the investments they've already made" President Biden

Additional regulation is not the answer to this quagmire" Steven Littlehale, Zimmet Healthcare Services Group

"All hypotheses are on the table. That's WHO's position and that's why we have been asking China to be cooperative on this" WHO Director-General Tedros Adhanom Ghebreyesus in response to a question about the origin of the virus

No Excuse for Inaction On Substandard Nursing Care

From an Opinion piece by Drew Sheneman of the *Star Ledger*, 04/16/2023

"Not only is nursing home care for New Jersey Medicaid beneficiaries lousy, it's also incredibly expensive. In just the past year the state, meaning you and I, has paid more than \$100 million to care for just 1,500 patients. That's a crazy number. At that price you would expect the level of care to be first-class, cutting-edge medical care. But according to the state Comptroller's office, the care these vulnerable patients are receiving is substandard at best and possibly criminally negligent at worst.

NJ.com, 04/16/2023

Ex. Order Would Tie Medicare Rate to Turnover

President Joe Biden signed a massive executive order that includes several measures intended to improve access to long-term care and bolster job protections for those who work in skilled nursing.

Among them are calls to expand on an as-yet undisclosed staffing mandate and tie Medicare payments to retention.

It directs HHS to consider issuing "several" regulations and guidance documents to "build on the minimum staffing standards for nursing homes and condition a portion of Medicare payments on how well a nursing home retains workers."

Biden said the low pay of healthcare workers leads o high turnover.

McKnight's, 04/18/2023

Association Reaction: Praise For the Philosophy, But

LeadingAge's Katie Smith Sloan said the executive order brought much-needed attention to caregiving. But the proposals did not represent "adequate solutions" for the long-term care sector but "sadly, the order does not meet the ever-growing needs of America's older adults and families."

AHCA/NCAL also praised the administration's goal of supporting long-term care workers as the sector continues to face a historic workforce crisis. "At the same time," it said in a statement, "we need policymakers to offer programs and solutions that will help us attract and retain caregivers to ensure residents are well supported.

McKnight's, 04/19/2023

Congresswoman, SEIU Attack AHCA On Staffing

At a Congressional "rally" calling on CMS to hasten its adoption of a first-ever national staffing minimum, Rep. Jan Schakowsky (D-IL) painted nursing home owners and AHCA as "the opposition."

She said AHCA had spent \$3.9 million lobbying Congress on the staffing mandate issue last year.

Schakowsky's talking points backed by SEIU national, included a call for a PPD staffing ratio and a \$25 wage for direct care workers.

AHCA leaders say they embrace the idea of increasing staff but cautioned that mandating hiring when the sector remains down more than 200,000 workers could lead to disaster for some facilities.

McKnight's, 04/21/2023

HHS Should Clarify, Define Proposed Ownership Rule

The comment period has ended for the HHS-proposed rule, designed to require disclosure of the individuals involved in ownership of nursing homes.

The rule would use require nursing homes enrolled in the Medicare or Medicaid programs to disclose the individuals, private equity firms or real estate investment trusts or entities that provide administrative services or clinical consulting services to them.

Provider responses have been split on the rule since its inception. LeadingAge is in favor while AHCA viewed it as more of a "red herring" in nursing home reform.

Senior Living, 04/19/2023

AGs Plead for More SNF Ownership Information

Attorneys general from 18 states have signed a letter to CMS in support of a federal proposal to increase public reporting of nursing home ownership and related party information.

The letter cited the challenge of identifying and holding accountable those owners whose roles or financial interest had been concealed from the public.

The effort was led by New York Attorney General Letitia James and Massachusetts Attorney General Andrea Joy Campbell and co-signed by the AGs in Arizona, California, Delaware, Hawaii, Maine, Maryland, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, Vermont and Washington.

McKnight's, 04/20/2023

IN THE TRENCHES – COVID-19 in the States, The SNFs, The World

AMERICA: The Food and Drug Administration has authorized a second dose of the updated Covid booster for older adults and people with weakened immune systems. Those 65 and older can get a second dose of the updated versions of Pfizer-BioNTech's and Moderna's Covid booster at least four months after their last dose (**NBC News**).

THE WORLD: A new study just published in *The Lancet Microbe* showed that detecting the Covid-19 coronavirus on people's hands and on frequently-touched household surfaces was associated with transmission of the virus. In other words, the results from this study provided further evidence that the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) can spread not only through contact with infected people and the air but also via contaminated hands and surfaces (**Forbes**).

THE WORLD: The majority of developing economies had less foreign exchange reserves at the end of 2022 than they did at the beginning of the Covid-19 pandemic. Import cover ratios — a standard comparable measure of foreign exchange reserves — fell by 25 per cent or more at 39 of the countries. Bolivia saw the sharpest decline in the forex reserves. It was followed by Sri Lanka, Lebanon and Pakistan, which all saw a decline of at least 75 per cent since March 2020 (**The Financial Times**).

AMERICA: A significant rise in opioid prescriptions was seen in pregnant women following the onset of the COVID-19 pandemic. An opioid prescription in the postpartum period was seen in an average 38.1% of women, 23.8% of women with vaginal deliveries, and 67% of women with cesarean deliveries. On average, the rate of filled opioid prescriptions among this population was 2.8 times greater than predicted in the months after March 2020 (**JAMA Network Open**).

CHICAGO: Doctors at NorthShore University Health System in the Chicago area are treating people suffering from

symptoms of long COVID with a nerve block, a procedure that has been used for decades to treat pain. The procedure involves injecting numbing medicine into the neck, freezing a collection of nerves called the stellate ganglion, forcing them to reset. Doctors treating patients with pain who also had long COVID noticed the pain and the long COVID symptoms both got better (**WMAQ-TV**).

ILLINOIS: About \$30 million from the federal Inflation Reduction Act that has been designated to distribute 60,000 HEPA air purifiers in more than 3,000 Illinois schools across the state. The funds had been set aside for COVID-19 testing. "Cleaner air in classrooms can reduce absentee rates by preventing the circulation of respiratory viruses—including COVID," Mike Claffey of the Illinois Department of Public Health said (**KPVI-TV**).

VIRGINIA: Beginning April 18, masks will now be optional in lower-risk settings in the University of Virginia Health System, including administrative buildings, ambulatory clinics, orthopedic centers and most of the hospital's west complex. Additionally, pre-pandemic visitation policies will be reinstated. UVA Health will not limit or deny visitation privileges unless the patient is at risk. Those with symptoms of COVID-19 or other respiratory illnesses will be required to mask at all times, regardless of location (**WCAV-TV**).

THE UNITED KINGDOM: The chances of long COVID — a suite of symptoms including exhaustion and shortness of breath — falls sharply between the first and second infections. Among the adults in a survey of 500,000 people in the UK, 4% reported long COVID symptoms persisting at least four weeks after their first infection, but just 2.4% of those who hadn't developed lingering health problems after their first infection reported ongoing symptoms after their second case (**NPR Shots**).

CINCINNATI: For the first time in three years, guests at hospitals in the Cincinnati region are no longer required to wear masks while visiting loved ones. The policy changes recently went into effect on different days at all six major health

systems in the region but have come in response to declining COVID-19 rates, increased immunity, and drops in other respiratory illnesses, hospital representatives confirmed (**The Health Collaborative**).

THE WORLD: RVO – retinal vascular occlusion – did not occur more frequently in the three weeks following the administration of an mRNA COVID-19 vaccine compared with influenza, tetanus, diphtheria or pertussis (Tdap) vaccines. In a study of three million EHRs by the Cleveland Clinic Cole Eye Institute, a new diagnosis of RVO – a serious, potentially vision-threatening condition – occurred in only 0.003% of patients within 21 days of COVID vaccination (**JAMA Ophthalmology**).

THE WORLD: In a global phase III trial, an investigational vaccine given to mothers during pregnancy slashed infants' risk of severe respiratory syncytial virus (RSV) illness through 6 months of age. One dose of the bivalent RSV prefusion F protein-based (RSVpreF) vaccine administered in the third trimester demonstrated a vaccine efficacy of 81.8% against severe RSV cases in infants within 90 days of birth and 69.4% within 180 days of birth (**New England Journal of Medicine**).

CALIFORNIA: A judge has ruled Calvary Chapel in San Jose must pay \$1.2 million in fines for ignoring Santa Clara County's mask-wearing rules between November 2020 and June 2021. Calvary was one of several large California evangelical churches that flouted state and local mask-wearing and social distancing rules designed to prevent the spread of COVID-19 during its deadliest period. (**San Jose Mercury News**).

COVID-19, 04/21/2023

Global Cases – Deaths
763,740,140 – 6,908,554

U.S. Cases – Deaths
104,445,294 – 1,129,573

U.S. Updated Booster Doses
55,499,012 or 16.7% of U.S

CMS & WHO

Provider Stripped of Possible Federal COVID Protections

A federal appeals court has sent a COVID-related lawsuit against Our Lady of Consolation Geriatric Care Center on Long Island back to state court, saying the PREP Act protections don't necessarily protect a facility from all negligent claims.

The wrongful death suit was brought by the daughter of a woman who was admitted to the nursing home in January 2020 and died April 1.

The facility argued that a New York district court should not have jurisdiction in the case, which largely hinges on the infection control measures Our Lady employed as COVID first hit the East Coast.

McKnight's, 04/18/2023

Thinking Outside the Box in Search for Beds

In Nebraska where some wait months for SNF beds, the Legislature has packaged 16 separate healthcare bills into one omnibus bill.

It would provide Medicaid reimbursement to hospitals at 100% to 150% of the statewide average nursing facility daily rate when a patient is unable to transfer to a nursing home due to a lack of available beds.

The omnibus bill also would trigger pilot one-time payments of up to \$6,000 to nursing facilities that accept patients with complex health needs when they are medically stable enough to be discharged from a hospital.

KBPY-FM, 04/17/2023

93% Occupancy If You Don't Count Offline Beds

In Massachusetts the statewide average operating occupancy is 93%, and every county is operating at more than 90% of occupancy.

However, due to staff shortages (8,000 open vacant jobs at nursing homes, about 20% of the previous total) over 3000 beds have been taken out of service.

Two bills moving through the Legislature are designed to help SNFs recover from the effects of the pandemic. They create a CNAs training program; establish grants for supervisory training and career advancement; require MassHealth – the state's Medicaid program – to recognize the need for facilities to pay a "living wage."

McKnight's, 04/12/2023

Providers Sue to Block NY Profit Capping Law

More than 130 nursing homes are suing the state alleging that a requirement to designate 70% of their profits for care of residents represents "the most serious regulatory threat" facing the industry.

The controversy centers around a 2021 law included in that year's budget that required residential health care facilities to spend a minimum of 70% of their total operating revenue on direct care for their residents, including at least 40% of their revenue for resident-facing staff.

The law should have gone into effect in January 2022 but was delayed by a series of executive orders and other regulatory holdups.

Times Union, 04/15/2023

Replaced Drugs with Saline RN Off to Graystone Hotel to

Emergency room nurse Jennifer L. Adams, 38, has been sentenced to 3 years in federal prison after pleading guilty to tampering with consumer products.

Adams admitted to repeatedly tampering with vials of injectable pain medications, including fentanyl, morphine, hydromorphone, and ketamine, while employed as an RN in the ED at Franciscan Health in Crawfordsville, Indiana.

Using an automated medication dispensing machine, Adams gained access to the medications without authorization and used them herself.

To conceal her scheme, she refilled the vials of medicine with saline solution and super glued the lids back on.

U.S. Attorney news release, 04/12/2023

ONE COLUMN

Gov't Offers Carrot, The Stick is Coming

Excerpted from *Forbes* article by Howard Gleckman

The federal government is about to increase Medicare payments for skilled nursing. At the same time, states are considering a new round of hikes in their Medicaid payments for long-term nursing home care. The price: Tough new requirements for facilities to hire more staff and work harder to keep care workers.

The federal government has proposed increasing Medicare payments to skilled nursing facilities by a relatively generous 3.7%, or \$1.2 billion, starting next September. But CMS also proposed tying a share of those payments to the rate of staff turnover in facilities.

Recent studies show that close to 100 % of nursing facility staff may leave over the course of a year, which can result in higher rates of infection and lower quality of care for residents.

But the biggest change may come later this spring, when the agency is expected to set minimum staffing requirements for nursing facilities.

The nursing home industry has been furiously lobbying to water down those rules and CMS has delayed them for several months.

Last year, New York State required nursing homes to provide a minimum of 3.5 hours of care per resident per day. That law also requires facilities to spend at least 70 % of their revenue on direct care and at least 40% on staffing. About a half-dozen other states also impose minimum staffing of at least 3.5 hours per resident per day.

Whatever the bottom line, the federal government seems to be on the verge of a new bargain with nursing home operators: It will give them more money but in return expect them to pass on at least some of those extra payments to front-line staff.

Forbes, 04/12/2023

Home Health Honcho Headed to Hoosgow

The owner of a southern Texas area home health company has been ordered to prison for his conviction of conspiracy to commit health care fraud.

Miguel Angel Contreras who pleaded guilty April 14, 2016 – seven years ago – will serve 45 months in a federal prison and will pay \$1,037,353 in restitution, the amount that Medicare paid him in fraudulent claims.

Contreras admitted he paid illegal kickbacks in exchange for patient information, including patient Medicare numbers used to submit claims to Medicare, and also forged and/or caused others to forge the signatures of physicians on the referral forms.

DOJ news release, 04/13/2023

Colorado Health Care and OSHA Join Forces

A first-of-its-kind alliance between a Colorado nursing home advocacy group and a federal safety agency will educate workers about common hazards in their field, as well as whistleblower protections.

The Colorado Health Care Association and OSHA have signed an agreement for an “ambassador-level alliance,” the first long-term care advocacy group to reach this level.

The OSHA Alliance Program works with unions, trade groups, businesses, and other organizations to increase safety and health to prevent workplace deaths, illnesses, and injuries, according to a press release announcing the alliance. There are two alliance levels: a basic one and the ambassador level.

McKnight's, 03/28/2023

Residents & Families Can Convey SNF Info to the Gov.

The Ohio Governor's Nursing Home Quality and Accountability Task Force has launched an online survey to gain insight about the quality of care and quality of life being provided in nursing homes across the state.

The survey allows nursing home residents – as well as their family members and caregivers, nursing home staff members and administrators, and anyone else – the opportunity to provide written testimony to detail various aspects of their experience involving nursing homes.

Information will be used to formulate an actionable report of recommendations to Gov. Mike DeWine's office before the end of May.

MT Vernon News, 04/15/2023

The Bad Times Are Getting Worse at ProMedica

ProMedica, which has faced immense financial difficulty for over a year, is laying off an addition 26 remote employees. The move is the result of ProMedica divesting over 100 unprofitable SNFs last year

ProMedica transferred ownership of the facilities to Welltower in December. In January, ProMedica announced it was laying off 262 employees.

The company posted over \$350 million in operating losses through the first three quarters of 2022 and delayed its fourth quarter report in March.

This year ProMedica sold its home hospice/healthcare business and pulled sponsorships from several civic events.

WTOL-TV, 04/19/2023

Medicaid Revenues Are Up But Medicare is Down

Staffing shortages are still leading the drag on skilled nursing operations, especially as the acuity level of patients has risen, NIC's Bill Kauffman noted on his blog.

Staffing, wage growth and general inflation are the big three making it harder on operators everywhere.

Medicaid revenue per patient day (RPPD) hit an “all-time high” of \$269 in January. That was up 2.79% year over year, while Medicaid revenue mix in January was at 49.8%, up almost 1% from a year earlier.

Meanwhile, Medicare PPD revenue dropped \$2 in January 2023 to \$592.

NIC, 04/03/2023

Briefly IN THE NEWS

An Ohio doctor acquitted in the deaths of 14 patients who died after they were given painkillers has filed a lawsuit against a national Catholic health system – Trinity Health Corp. - that operates the hospital where he worked in the intensive care unit. William Husel claims malicious prosecution and is seeking a jury trial and at least \$20 million in damages (*MedPage Today*).

Ever since the end of March when Louisiana Senator Bill Cassidy, at a Senate Finance Committee hearing flashed a photo of an empty CMS headquarters parking lot and asked HHS Secretary Xavier Becerra how he knew his people were actually working, federal telework has been under the microscope. Now the Biden Administration, through the Office of Management and Budget, is directing federal agencies to start bringing more people back into the office (*Becker's Hospital Review*).

For the first time HHS is releasing ownership data for all Medicare-certified hospice and home health agencies. Anyone can now review detailed information on the ownership of more than 6,000 hospices and 11,000 home health agencies certified to participate in the Medicare program on the CMS website – cms.gov (*HHS*).

Transportation Services Unlimited, Inc. d/b/a Guardian EMS, Paterson, New Jersey, entered into a \$362,614 settlement agreement with the HHS OIG. The settlement resolves allegations that Guardian EMS presented claims to Medicare Part B for ambulance transportation to and from SNFs where such transportation was already covered by the SNF consolidated billing payment under Medicare Part A (*HHS OIG*).

A new analysis by the National Council on Aging and others found that 80% of older adults – 47 million people – don't have the financial resources to cover four years of assisted living or two years in a nursing home....60% couldn't afford two years of home care (*Senior Living*)