

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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THEY SAID IT:

"The pandemic really brought out the best in our healthcare workers, and as policy makers, as the lawmakers, we need to be focused on what's going to make their lives easier — not add to the strain or increase costs or limit access to care" Rep. Cathy McMorris Rodgers (R-WA), chairwoman of the House Energy & Commerce Committee, which oversees Medicaid

"For her to stand up and say she's willing to fight for us on the staffing mandate, that is huge" Mark Parkinson, AHCA/NCAL CEO

"It is a bad deal. No one sent us here to borrow an additional \$4 trillion to get absolutely nothing in return" Rep. Chip Roy (R-Texas) one of the budget bill's most outspoken opponents

LTC Apparently OK With the 3.7% Pay Hike

The official comment period for a proposed 3.7% nursing home pay hike closed with just 45 comments, a historically small number indicating that, unlike previous pay rules, LTC is mostly satisfied with the federal proposal.

AHCA/NCAL, LeadingAge, and other big-name advocacy groups encouraged CMS to continue increasing federal payments to skilled nursing facilities.

They did take issue with other aspects of the 2024 proposed rule.

While CMS did not attach the anticipated proposal on minimum staffing requirements to the pay rule in April, LeadingAge noted in its comments that the staffing rule will lead to higher costs.

McKnight's, 06/06/2023

Federal Budget Breathing Room, Healthcare Did OK

Federal health programs have dodged a budgetary bullet in the Washington showdown over raising the nation's debt ceiling. A compromise bill — approved in a bipartisan vote by the House and Senate includes some trims and caps on health spending for the next two years.

The deal spares health programs like Medicaid from the deep cuts approved in April by the House and suspends the debt ceiling — the federal borrowing limit — until January 1, 2025.

Besides the spending limits, the main health-related concession made by Democrats is the clawback of about \$27 billion in money appropriated for covid-related programs but not yet spent.

KFF Health News, 06/05/2023

Biden Set to Announce New CDC Boss

President Biden plans to select former North Carolina health secretary Mandy Cohen to lead CMS, according to three people with direct knowledge of the pending announcement.

HHS Secretary Xavier Becerra spoke with Cohen last week to congratulate her on her selection. Biden's formal announcement is expected later this month.

Cohen, an MD who served in the Obama administration as chief of staff at CMS, helped implement the Affordable Care Act and new payment models at the agency.

She served as North Carolina's health secretary for nearly five years into 2021, helping lead the state through the Covid-19 pandemic.

The Wall Street Journal,
The Washington Post, 06/01/2023

Workers Ask State To Keep Nursing Home Open

The Rhode Island Department of Health has accepted the Charlesgate Nursing Center's plan to close.

Workers, however, remain hopeful that the state will intervene to keep the "social safety net" nursing home open amid plans

to transfer all residents to other facilities and close by July 31.

Roughly 90 employees represented by SEIU 1199 New England stand to lose their jobs as Charlesgate winds down operations. The union is calling on the state to put the facility in receivership rather than allow it to close.

Charlesgate had 80 residents before the closing was announced. It is now just 26.

The Providence Journal, 05/17/2023

Staffing Mandate: Not Yet, But It's Still Coming

More than 500 long-term care providers descended on D.C. last week today to try to head off a minimum staffing rule and win support for legislation that could make recruiting and training workers easier.

AHCA/NCAL CEO Mark Parkinson noted a rule setting a first-ever federal nursing home staffing minimum is being reviewed by a White House budget office. It should arrive between now and June 21, the last day of spring.

A study commissioned by AHCA/NCAL found that the mandate would require an additional 190,000 workers on top of the 200,000 already missing at a cost of \$11 billion annually.

McKnight's, 06/06/2023

Multi-Million \$\$ Settlement Near For Residents of SF SNF

A \$2.2 million settlement with patients who suffered abuse at a San Francisco skilled nursing facility before it was threatened with closure have moved a step closer to resolution.

A San Francisco Board approved the settlement for 11 older residents at the 769-bed Laguna Honda Hospital & Rehabilitation Center, which is the nation's largest publicly run nursing home.

An investigation four years ago confirmed multiple claims of patient abuse, including nude photographs of residents, by six former nurses and two nonfatal patient overdoses at the facility that involved the smuggling of methamphetamines and fentanyl.

KQED-TV, 06/05/2023

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

MICHIGAN: Livingston County, between Detroit and Lansing, is in the process of allocating more than \$37 million it received in federal COVID-19 relief from the federal American Rescue Plan during the pandemic. The county's ARPA money will fund projects such as a new ambulance base, upgrades for the jail and county sheriff's department and an upgraded for the 911 Central Dispatch, among others. Counties have until the end of 2024 to decide how ARPA funds will be used and until the end 2026 to spend them (*Livingston Daily*).

AMERICA: Of this year's graduating high school class, who were ninth graders when the pandemic began, more than 40% of students changed their thinking about their college major or future career because of COVID. One in 3 high school seniors surveyed by ACT researchers said the pandemic changed their thinking about their future career; about 1 in 4 changed their ideas about what major to pursue and which college to attend; and roughly 1 in 10 said it made them wonder whether they should go to college at all (*USA Today*).

JAPAN: Joint research by Kirin Holdings and Nagasaki University has found that *Lactococcus lactis* strain Plasma (LC-Plasma) could hasten recovery of smell and taste dysfunction caused by COVID-19. In addition, a LC-Plasma group saw a marked reduction in SARS-CoV-2 viral load from the start of the 14-day treatment, whereas a placebo group only showed reduction from day four (*NutraIngredients Asia*).

COLORADO: Physician Francis Joseph, MD, was sentenced to 2.5 years in prison for stealing about \$250,000 from two separate COVID relief programs - the Accelerated and Advance Payment Program and the Paycheck Protection Program. Prosecutors said Joseph used the funds inappropriately for his own personal expenses (*DOJ*).

THE WORLD: Novavax's updated COVID-19 vaccine candidate is likely to protect against circulating omicron variants. Filip Dubovsky, the company's head of research and development, said that the shot targets

the currently dominant XBB.1.5 but that it should provide protection against other strains circulating (*U.S. News & World Report*).

AMERICA: A claim that Academy Award winner Jamie Foxx was hospitalized and was "partially paralyzed and blind" after he was seriously injured by a Covid-19 vaccine has been declared as untrue by the actor's family. Foxx's representatives said the claim is "completely inaccurate," and his daughter said although Foxx was hospitalized for an undisclosed illness in April, he had been home for weeks and was well enough to play pickleball (*NBC News*).

NEW YORK: The State Department of Health said it will repeal the state-imposed COVID-19 vaccine requirement for all workers at regulated health care facilities. In January, a New York Supreme Court judge struck down a mandate requiring all health care workers in the state to be vaccinated against COVID-19. The department added that health care facilities could continue to impose their own policies internally, regarding COVID-19 vaccination (*NY Post*).

NEW JERSEY: Inspira Medical Centers, a/k/a Inspira Health Network, which owns and operates several hospitals and numerous health centers in New Jersey, has entered into conciliation agreements with the EEOC to resolve six religious discrimination charges. The EEOC said all six charges were the result of Inspira denying employees a religious exemption to its mandatory influenza vaccination policy. Inspira will pay a total of \$100,000 in compensatory damages to five employees who agreed to conciliate their charges (*EEOC news release*).

SPAIN: Air pollution exposure is associated with a higher risk of experiencing severe outcomes from COVID-19 infections, including intensive care unit (ICU) admissions and death. The Barcelona Institute for Global Health study is based on outcomes seen among 4,660,502 adult residents in Catalonia, Spain, in 2020, where 340,608 cases resulted in over 10,000 deaths. The authors said their findings were similar to

those seen among COVID-19 cases in Ontario and Los Angeles (*CIDRAP*).

NEW HAMPSHIRE: Mountain View Community nursing home was fined by CMS \$155,680 (\$101,000 after waiving an appeal) for allowing a COVID-19 positive employee to return to work after five days rather than ten. A county official blamed a change in COVID-era rules for confusion that led to the fine. The penalty was issued after an anonymous complaint (*Conway Daily Sun*).

AMERICA: In a multistate analysis of 85,075 hospitalizations of persons with COVID-19-like illness, bivalent doses were 62% effective among adults without immunocompromising conditions, and 28% effective in those with immunocompromising conditions in preventing COVID-19-associated hospitalization during the first 7-59 days after vaccination. Consequently, the CDC recommends adults should stay up to date with COVID-19 vaccines (*CDC Weekly Morbidity and Mortality Report*).

U.S & UNITED KINGDOM: A U.K. study looked at all-cause mortality, meaning anyone who dies from any reason. The study found that getting the COVID-19 vaccine reduced the likelihood of dying from COVID-19 and non-COVID-19 causes. The results of the U.K. study (and a Florida study that showed similar results) were important. People who get the COVID-19 vaccine are less likely to die from any cause. In the last few years in the U.S., the longstanding trend of improved mortality has reversed, and death rates are going up, partially due to COVID-19 (*Courier Tribune*).

COVID-19, 06/09/2023

Global Cases – Deaths
767,750,853 – 6,941,095

U.S. Hospitalizations – Deaths
6,176,446 – 1,131,439

U.S. Updated Booster Doses
56,478,510 or 17% of U.S

CMS & WHO

Debt Deal Ends Pandemic Relief with Billions Unspent

The Health Resources & Services Administration is indicating that with the passage of the Fiscal Responsibility Act of 2023, no further payments will be made to aging services providers under the PRF or the American Rescue Plan Rural Distribution.

Among the measures in the act is a clawback of \$28 billion in unspent and uncommitted COVID-19-related funding. Although long-term care advocacy groups initially thought the remaining PRF funds would be spared, that is not the case.

The debt ceiling deal keeps federal nondefense discretionary spending approximately flat in fiscal year 2024, increasing it by 1% for 2025.

McKnight's, 06/09/2023

COVID-19 Outbreak at Massachusetts Vets Home

Massachusetts' Executive Office of Veterans' Services reported 15 residents and 10 workers at the Chelsea Soldiers' Home, an assisted living facility, have tested positive for COVID-19.

Officials say the first positive case came Wednesday May 31 after an event on Sunday, May 28, believed to be the source of the outbreak.

Two patients were hospitalized, and both have since returned to the facility.

COVID-19 killed 31 veterans at the Chelsea facility during an outbreak in the early days of the pandemic.

WBTS-TV, 06/05/2023

Supreme Court Upholds Right To Sue Public Nursing Homes

In a 7-2 decision, SCOTUS ruled that nursing home residents and/or survivors can sue publicly owned facilities under the Federal Nursing Home Reform Act.

The Court upheld a lower ruling against the Health and Hospital Corporation of Marion County, Indiana, which had argued in a case that the Medicaid system's existing oversight and discipline systems were the correct

avenue for aggrieved parties to seek recourse.

The ruling, experts had predicted, could have far-reaching implications for millions of people, beyond those living in nursing homes, who rely on all kinds of federal benefits managed by government entities.

McKnight's, 06/08/2023

High Court Hands Feds A 'Clear Win' On False Claims

In a pair of consolidated whistleblower cases, the Supreme Court unanimously ruled that liability in False Claims Act suits depends on whether the defendants believed that their claims were false, not on whether they had made an "objectively reasonable" interpretation of law or regulation.

The cases hinged on whether a defendant's subjective knowledge of the law is equal to objective knowledge in filing a false claim.

To be liable under the FCA, a defendant knowingly must make a false claim to the government.

The cases in point involved two pharmacies that filed claims knowing they were not legitimate.

McKnight's Business Daily, 06/02/2023

Washington SNFs Receive Boost in State Funding

The two-year Washington state budget increases the Medicaid rate for skilled nursing facilities by 14% over the next two fiscal years and adds funding for some specialty care.

The Washington Health Care Association calculated the total additional Medicaid funding to be \$406 million.

The Legislature, however, did not pass Senate Bill 5526 that would have codified into state law a formula for adjusting Medicaid funding for these facilities. That means funding is only guaranteed for nursing homes for the next two years.

Lawmakers will revisit the patient Medicaid rate for nursing homes in 2025.

HeraldNet, 05/22/2023

ONE COLUMN **Even with Caps, Some Agencies Try to Raise Rates**

While more state lawmakers are proposing legislation to rein in anti-competitive behaviors by some staffing agencies, a new turn of events in Massachusetts proves rules alone aren't enough to suppress rates.

The Attorney General's office recently said it had received "multiple complaints" from long-term care facilities that some agencies are attempting to overcharge or demanding illegal fees.

Massachusetts was one of just two states with an agency cap before the pandemic, and its regulations and rates are updated routinely.

In Massachusetts, the AG can pursue litigation to seek penalties or injunctive relief if a temporary nursing agency is found to have committed unfair or deceptive acts. State officials can also revoke the license or registration of an agency found in violation.

Recent complaints focused on rates above maximums; false claims that rate caps were suspended due to COVID-19; requests for holiday pay on non-contracted holidays; misclassification and demanding a "pickup bonus" for employees who agree to take a shift on short notice.

Campbell's office said they'd also heard of agencies proposing rates in excess of the maximum rate during inclement weather or based on the number of COVID cases in a building, and charging back bonuses the agency paid to nurses to the facility.

At least 12 other states are addressing the problem. In Missouri, a Senate bill would make it a felony for agencies to charge emergency rates at a "gross disparity" from what they charge in normal times. The bill is stuck in committee.

In Colorado, lawmakers passed a rule forbidding agencies from charging fees That typically topped \$5,000 when facilities sought to hire agency staff as their own, full-time employees.

McKnight's, 04/20/2023

Opioid Abuse Could Be Census “Fix” – But Be Careful

Substance abusers are a problem for society, but also a source of much-needed census for nursing homes leading more SNFs to consider opening up beds to people with OUD – opioid used disorder.

The authors of a recent article in Health Affairs say OUD folks could be a good source of census building, but training of staff is the key to success.

Without familiarity with OUD, they may not be able to identify residents with dangerous substance use or withdrawal symptoms nor form good working alliances with residents with OUD who display behaviors they misinterpret.

Health Affairs, 06/08/2023

Purge – ‘Staggering Numbers’ Losing Medicaid Coverage

More than 600,000 Americans have lost Medicaid coverage since pandemic protections ended on April 1. An analysis of state data shows the vast majority were removed from state rolls for not completing paperwork.

Because of a nationwide pause in those reviews during the pandemic, Medicaid retained enrollees even if they no longer qualified.

Now, in what’s known as the Medicaid unwinding, states are combing through rolls and deciding who stays and who goes.

Ultimately, about 15 million people will be dropped over the next year as states review participants’ eligibility in monthly tranches.

Kaiser Family Foundation, 06/01/2023

Children in Nursing Homes Judge Tells Florida ‘Fix It’

The fate of 140 children who are living in Florida nursing homes, is in the hands of federal Judge Donald Middlebrooks, who is presiding over a civil rights lawsuit filed by the Justice Department in 2012.

Middlebrooks indicated when the trial ended in May that he believes Florida is violating the rights of those children

The Supreme Court ruled in 1999 to force people with disabilities to live in institutions violates the ADA.

Lawyers for the state argue the litigation threatens the state’s sovereignty, and that Florida should be allowed care for people with disabilities without interference from federal regulators.

Miami Herald, 05/25/2023

Readmissions Still Plague Some Nursing Home Residents

In a CMS study, nearly one-fifth of skilled nursing patients continue to be readmitted to hospitals.

Also persisting were disparities among patients when it came to who was most likely to be referred to skilled nursing and then on to hospitals.

Those referred to skilled nursing were overwhelmingly white (80%) and urban (78%). Nearly all the individuals (98.4%) discharged to nursing homes also had four or more co-occurring health conditions.

Of approximately 300,000 patients discharged to SNFs, about 17% were readmitted within 30 days. It was about 11% for those discharged to other settings.

McKnight’s, 06/08/2023

Fire Causes Kansas Nursing Home Evacuation

A fire caused the evacuation of Hilltop Manor in Cunningham, Kansas Monday evening.

Tar was being applied to the roof of the nursing home, when during the sealing process fire got into the soffit.

Fire fighters quickly knocked down the blaze. Damage was not substantial and was contained to three units.

There were no injuries.

KSN-TV, 06/03/2023

Briefly IN THE NEWS

Artificial intelligence is being used to keep residents safe and improve their overall health. Researchers at Monash University engineering have created a new wearable patch that harnesses AI and nanotechnology to monitor seniors’ health via biometrics. The patch is designed to monitor 11 human health signals, including speech, neck movement and touch, plus breathing and heart rates and so far the patch has had a 93% accuracy rate in monitoring those health signals (*Senior Living*).

Invesque has sold seven building in Illinois for \$101.3 Million. The facilities were previously part of an absolute net lease with Symphony Care Network(SymCare). Following the June 1 Sale, SymCare continues to lease one facility from Invesque, which the Company expects to sell by July 1 (*NewsWire*).

The Chicago-based law firm Rosenfeld Injury Lawyers analysed Google data to find the most often searched terms for personal injuries and ailments over the last 12 months. Their analysis showed the following results: Carpal tunnel syndrome: 222,623 searches per month; Bursitis: 217,089 / month; Shin splints: 215,527 / month; Muscle strain: 171,305 / month; Concussion: 140,505 / month (*Becker’s Hospital Review*).

CareTrust acquired three skilled nursing facilities on June 1, 2023 with one additional facility scheduled to close once third-party consents have been obtained. The four-property acquisition includes 450 skilled nursing beds and 20 assisted living units. Links Healthcare Group, a new operator relationship for CareTrust, will operate the facilities (including the three facilities acquired on June 1) pursuant to a new 15-year master lease with two, 5-year extension options (*Business Wire*).

CMS said last week Medicare Part B will provide coverage for new amyloid-busting Alzheimer’s drugs as soon as the FDA grants traditional (full) approval. The decision applies to monoclonal antibody drugs shown to slow the progression of Alzheimer’s symptoms. But to the dismay of patient advocates, CMS has previously denied coverage beyond clinical trials, saying that more real-world patient data is needed (*McKnight’s*).