

# LeadingAge Policy Update



**July 2, 2018**

## **Overview**

Most of our legislative activity now is focused on housing and home- and community-based services appropriations for 2019. House and Senate appropriations committees are marking up legislation and the congressional leadership wants to get individual spending bills done before the new fiscal year begins on October 1. However, time is relatively short and in the end it appears likely there will be some kind of continuing resolution.

Many bills to address various aspects of the opioid epidemic have passed the House but no significant changes in Medicare or Medicaid are on the congressional agenda before the November midterm elections.

On the regulatory front, we have filed comments on the proposed Medicare payment rules for skilled nursing facilities and hospice, which include provisions on value-based purchasing, quality reporting, and reform of the payment system. We also continue our advocacy on reform of the nursing home oversight system.

## **Senior housing funding for 2019 – H.R. 6072/S. 3023:**

We are working to build on our fiscal 2018 success in gaining \$105 million in new construction funding and RAD for PRAC, which will give Project Rental Assistance Contract communities access to HUD's successful Rental Assistance Demonstration program.

House and Senate Appropriations Committees have both approved their respective fiscal 2019 Transportation/HUD spending bills, H.R. 6072 and S. 3023. The next step in each house will be floor consideration.

On the House side, Rep. Debbie Wasserman-Schultz (D-FL) successfully offered an amendment in committee to keep 2019 Section 202 funding level with the 2018 appropriation enacted in March, \$678 million. The 2018 appropriation represented a significant increase over last year's funding.

This same funding level is provided in the Senate bill, which also provides \$11.7 billion for Project-Based Rental Assistance. Of the Section 202 funding in the Senate bill, \$90 million is for service coordinators (level with fiscal year 2018 funding), approximately \$51 million is for new homes under the Section 202 program, and \$10 million is for a new home modification program, according to Linda Couch.

## **2019 Labor/Health and Human Services appropriations – S. 3158:**

This measure funds home- and community-based services under the Older Americans Act, healthcare workforce programs, low-income home energy assistance, Community Services Block Grants, Lifespan Respite Care, and Social Services Block Grants, all of which are important to older people living in community settings.



# LeadingAge Policy Update



The Senate Appropriations Committee approved a 2019 spending bill, S. 3158, which provides some increases in funding for aging services programs. Aging and disability services programs under the Administration on Community Living would receive a total increase of \$6 million over this year's funding. Low-income home energy assistance would gain \$50 million. Social Services Block Grants, which many states use to provide home- and community-based services, would be level funded at \$1.7 billion. The next step for this measure is consideration on the Senate floor.

The House Appropriations Subcommittee on Labor/Health and Human Services approved draft legislation on June 15, but it has not yet come to a vote in full committee.

## **2018 rescission legislation** – H.R. 3

A procedural vote to bring this measure, already passed by the House, to the Senate floor failed to get a majority vote in the Senate on June 20. The deadline for the Senate to pass the bill on a simple majority vote was June 22, so the rescissions proposed by the Trump Administration will not be enacted. This is good news for us, as the legislation would have rescinded \$40 million in HUD funding.

## **2019 budget resolution**

To demonstrate its concern about federal budget deficits, the House Budget Committee approved a budget resolution for fiscal 2019, despite the fact that the Bipartisan Budget Act enacted in February established federal spending levels for the next fiscal year. The budget resolution calls for large cuts in Medicaid, through block grants and/or per capita caps; and in Medicare through privatization. However, there has been no indication from the leadership of either the House or the Senate that floor votes will take place on this measure.

## **Nursing home oversight and requirements of participation (ROPs):**

**Nurse aide training lock-out:** Since the automatic loss of training authority is statutory, we have drafted legislative language to make the remedy optional, rather than mandatory. We are soliciting sponsors to introduce the measure.

We also are urging Congress to:

- Establish federal standards for training surveyors;
- Provide for joint training of state survey agency and nursing home staff;
- Direct the Centers for Medicare and Medicaid Innovation (CMMI) to conduct demonstration programs for states to test alternative nursing home oversight processes. The demonstrations must be structured in ways that will ensure high quality of care for residents.

## **Medicare 2019 payment rules for SNF/hospice**

On April 27, CMS issued proposed 2019 payment rules for skilled nursing facilities and hospice.

# LeadingAge Policy Update



As legislated in the Bipartisan Budget Act, nursing homes will receive a 2.4% payment update, a bigger increase than they would have received under previous law. Hospices will receive an update that will average 1.8% nationwide, with variations due to wage indices.

The proposed rules have a number of other provisions related to skilled nursing facility value-based purchasing and quality reporting, the patient-driven payment model, and changes to the hospice quality reporting program.

LeadingAge filed [comments](#) on the proposed rules.

## **Medicare 2019 payment rule for home health**

On July 2, CMS issued a proposed payment rule for home health. The proposed rule implements several provisions of the Bipartisan Budget Act that we supported, including a 2.1% Medicare payment increase in 2019. It contains a proposed revision of the home health payment system according to a Patient-Driven Groupings Model, to begin in 2020. This proposal could have far-reaching implications for providers; we are analyzing it closely and will file comments with CMS.

We are very encouraged by the regulatory relief proposed in the rule, as these provisions – allowing reimbursement for remote monitoring through technology and facilitating the certification of beneficiaries for home health services – will remove unnecessary barriers for beneficiaries and reduce Medicare costs.

## **Medicare therapy caps:**

The Bipartisan Budget Act, now law, completely repealed the caps on Medicare coverage of outpatient therapy. We and our members have advocated against the caps since their inception, so this repeal is a significant achievement.

The new law modifies procedures for establishing medical necessity for therapy and triggers for medical review.

## **Medicare Observation Days legislation:**

We are supporting H.R. 1421 and S. 568, the Improving Access to Medicare Coverage Act. The legislation would resolve the observation days issue by requiring all time Medicare beneficiaries spend in a hospital to count toward the three-day stay requirement for coverage of any subsequent post-acute care. We urge legislators to cosponsor these bills.

## **Medicare Advanced Care Model Service Delivery**

We support H.R. 2797/S. 1334, the Patient Choice and Quality Care Act, which calls for a new payment model for services needed by beneficiaries with advanced illnesses. Under this model, an interdisciplinary team would coordinate services consistent with the beneficiary's Goals.



# LeadingAge Policy Update



## **Home- and community-based services legislation:**

We are advocating in favor of the following measures to improve Medicare and Medicaid coverage of home- and community-based services:

- H.R. 3461, the Improving Care for Vulnerable Older Citizens through Workforce Advancement Act, introduced by Rep. Matt Cartwright (D-PA). The bill would provide grants to health care provider consortia to coordinate care and services for people with chronic health conditions. The six demonstration projects authorized under the bill would focus on enhanced clinical training for direct-care workers to enable them to take on deeper responsibilities and play a key role in smoothing transitions among the various levels of care and services.
- S. 309/H.R. 4006, the Community Based Independence for Seniors Act. The legislation would establish a community-based special needs plan that would give low-income Medicare beneficiaries coverage for home- and community-based services. The House bill sets a tighter limit on the number of beneficiaries who may participate.
- S. 445, the Home Health Planning Improvement Act, introduced by Sens. Susan Collins (R-Maine) and Ben Cardin (D-Maryland). The bill would facilitate Medicare beneficiaries' access to home health care by allowing physician assistants, nurse practitioners, clinical nurse specialists, and certified nurse midwives to order home health services. These health care professionals are playing increasingly important roles in the delivery of health care, particularly in rural and underserved areas.
- S. 2227, the Ensuring Medicaid Provides Opportunities for Widespread Equity, Resources, and Care (EMPOWER Care Act) that extends funding for the Money Follows the Person demonstration to 2022.

## **Long-Term Services and Supports Financing:**

We filed [comments](#) on Rep. Frank Pallone (D-NJ)'s draft proposal to incorporate a long-term care insurance product into the Medicare program. The goals of this proposal share those expressed in our "New Vision" report: facilitate independence, protect families and individuals from high out-of-pocket expenses, alleviate the burden on family caregivers and address unmet needs. Our comments addressed both policy questions and the nitty-gritty of implementation. We look forward to continuing to work with Rep. Pallone and stakeholders from the aging and disability communities on this legislation, which represents a critical step toward developing a more universal system for paying for long-term services and supports.

# LeadingAge Policy Update



## **CMS memo on immediate imposition of federal remedies**

On June 15, 2018, the CMS Quality, Safety and Oversight (QSO) Group released a [memorandum](#) on final revised policies on the immediate imposition of federal remedies. LeadingAge worked with members and CMS to provide input on the policies through face-to-face meetings and written comments.

## **Regulatory Round-Up:**

We regularly post [updates](#) on federal regulatory initiatives affecting nursing homes and other health services providers, HUD housing, and home- and community- based services.

## **Other News**

### **Guiding Principles on Political Activity for Non-Profits**

With primary balloting already in progress and the closely-watched congressional midterm elections less than five months away, we have published [Guiding Principles for Nonprofit Providers](#) to help members stay within Internal Revenue Service rules on permissible political activity.

### **2030 Scenario Planning for Aging Services**

In an uncertain political and regulatory environment with multiple forces impacting aging services, it is imperative that we help our provider members take the initiative to plan for possible futures. While none of us have a crystal ball, we have a sense of the forces that will impact us and, as a result, we can imagine possible scenarios for the future. We have engaged the Institute for Alternative Futures to help us with 2030 Scenario Planning for Aging Services. We will be working together over the next six months and, at the end of this process, we hope to have a set of free, proactive tools. These will be designed to be used by members to guide their boards through generative discussions around these scenarios with an eye to planning for the future. Stay tuned for more information to come!

### **Center for Workforce Solutions**

LeadingAge's Center for Workforce Solutions is thrilled to announce a brand-new podcast, LeadingAge Workforce Innovators. During each episode, we interview extraordinary LeadingAge members who share their promising practices. We also strive to explain how those solutions might be replicable for your organization's workforce.

The 1st episode is now available for free, along with several other mini-interviews. Subscribe to LeadingAge Workforce Innovators now wherever you get your podcasts (e.g., Apple, Google, etc.).

