

Member Call Summary

September 5, 2025

Interim Final Rule Suggests Repeal of Nursing Home Staffing Standard By CMS

As previously reported, on August 15, the U.S. Department of Justice (DOJ) filed notice that it is appealing the June 18 decision to the U.S. Court of Appeals for the Eighth Circuit. However, an Interim Final Rule was received by the Office of Management and Budget (OMB) on August 22 titled “Medicare and Medicaid Programs; Repeal of Minimum Staffing Standards for Long-Term Care Facilities.” Though the contents of this rule are not known at this time, it would appear from the title that the Centers for Medicare and Medicaid Services (CMS) intends to repeal the rule finalized in May 2024. [More here.](#)

CMS Added a Study of Misleading MA Marketing Practices to Its Work Plan

There have been widely publicized concerns from the public and policymakers regarding Medicare Advantage (MA) plans’ aggressive and deceptive marketing practices. Now the Office of the Inspector General (OIG) has announced it will be looking into these practices from 2020 to 2024. Specifically, OIG will [study](#) the actions taken by agents and brokers that led to complaints and the incentive structures that encouraged brokers to change individuals' enrollments. LeadingAge has highlighted concerns from members about such deceptive practices, including our Programs of All Inclusive Care (PACE) organizations about MA brokers and agents that enticed PACE enrollees to drop their PACE coverage for attractive supplemental benefits of an MA or special needs plan (SNP). Often the beneficiaries were unaware that they had to disenroll from PACE to receive the promised benefits. LeadingAge is pleased to see these complaints and concerns being examined by OIG. The report is expected to be published in 2026.

LeadingAge to DOL: Withdraw Proposed Rule Eliminating Home Care Workers’ FLSA Protections

The nation’s leading association serving nonprofit and mission-driven providers of aging services, including agencies delivering home care, [in comments submitted yesterday](#), urged the Department of Labor (DOL) to withdraw its proposed rule that would eliminate Fair Labor Standards Act (FLSA) minimum wage and overtime protections for home care workers and instead leverage recent Trump administration initiatives—including those focused on workforce development and apprenticeships—to positively impact the current home care workforce crisis.

Emphasizing that **LeadingAge**, like the DOL, is deeply concerned about the issues and challenges workers and employers in the home care sector navigate—and how these issues impact older adults’ ability to access needed care—in comments on the **Application of the Fair Labor Standards Act to Domestic Service proposed rule**, the association details its disagreement with DOL’s proposal to return to the 1975 rule permitting third-party employers to claim the ‘companion services’ exemption that exclude many home care workers from FLSA protections.

Calling the now-in-place 2013 Rule, which limits the companionship services exemption to workers who are performing only casual and intermittent services, the “more appropriate application” of law,” LeadingAge President and CEO Katie Smith Sloan explains that “for the current workforce employed by third-party employers of home care services, the work is not casual; it is a primary occupation.”

What’s more, federal statute and regulations have since 1989 required Medicare-certified home health agencies employing home health aides to comply with specific training and evaluation standards approved by their state. Also, for the second most common professionals in home care, personal care aides, the consistency of training requirements have expanded, and currently all but seven states have implemented training requirements. “This is because state governments and federal regulators recognize these individuals as trained professionals, not casual companions.”

To repeal the 2013 rule, Sloan said, would undermine efforts by her association and other advocates to improve and further professionalize home care jobs and would also by “devaluing home care work as that of casual, intermittent companions” further destabilize the workforce at a time when investment in it is needed.

Also taking issue with the DOL’s stated expectation that if adopted, the proposed rule would expand access to care, Sloan maintains that “working longer work hours, and/or receiving lower pay for those hours, could negatively impact the retention of home care workers and lead to increased employee turnover and difficulty attracting skilled workers to the sector.” Indeed, removing basic labor protections from home care workers will only exacerbate the multiple issues buffeting the home care sector, its workers and consumers: serious threats from cuts to federal Medicaid contributions, changing immigration policies, and the lack of realistic long-term services and supports (LTSS) options.

Given the significant challenges facing older adults and aging services—including an aging population and an insufficient pool of available workers to support their care needs, Sloan recommends the DOL rescind the proposed rule and also leverage recent Trump administration initiatives, including the creation of the Office of Immigration Policy (OIP) within the Department’s Office of the Secretary, and the Preparing Americans for

High-Paying Skilled Trade Jobs of the Future executive order, drafted jointly by the departments of Labor, Commerce, and Education, to make positive change.

“Actions can and must be taken to recruit and retain these critical home care workers,” she writes, and “change the perception of these roles through investment.”

Read more [here](#).

Long-Term Care Pharmacy Bill Introduced in House

Long-term care (LTC) pharmacies provide specialized services, from 24/7 medication access, enhanced medication management, specialized packaging and shipping, and consultant pharmacist services, for residents and patients across various LTC settings.

Unfortunately, well-intended Medicare policy changes included in the Inflation Reduction Act and designed to lower Medicare drug prices for older adults will have serious unintended consequences for our LTC pharmacy partners.

LTC pharmacies rely on Medicare Part D for the vast majority of their revenue. They depend on brand name drug reimbursements to offset losses on generic medications that cannot be supplemented by offering consumer goods, as retail pharmacies do. As new Medicare negotiated drug prices go into effect in the coming years, LTC pharmacies will face growing financial losses that could threaten their survival and result in pharmacy access issues for older adults.

The *Preserving Patient Access to Long-Term Care Pharmacies Act* (H.R. 5031) was introduced on August 22, 2025, by U.S. Representatives Beth Van Duyne (R-TX), Brad Schneider (D-IL), Buddy Carter (R-GA), Sharice Davids (D-KS), and Deborah Ross (D-NC), to address this issue.

This bill would create a new \$30 supply fee in 2026 and 2027 to be paid each time a Medicare Part D negotiated drug is dispensed, ensuring continued access to necessary medications for patients and residents in LTC settings. It would also direct the Government Accountability Office (GAO) to study the economic sustainability of LTC pharmacy participation in Medicare and to make policy recommendations to preserve access—especially in rural areas.

LeadingAge supports this bill and will continue to monitor its progress as Congress considers additional health legislation in the coming months.

Read more [here](#).

Help Us Tell Your Story: Impact of Medicaid Cuts on Nursing Homes

Our work to address harmful provisions from July’s budget reconciliation bill continues. The new law will cut more than \$900 billion from federal Medicaid spending over the

next 10 years. As part of our advocacy, we are eager to hear from nursing home providers on what kinds of changes you might have to make if your Medicaid funding is cut. We will use this information in our advocacy—and also share it with you for use in yours! Nursing home provider members, please take a moment and fill out [this quick survey](#) by September 8.

CDC Releases Influenza Vaccine Recommendations for 2025/2026 Flu Season

The Advisory Committee for Immunization Practices (ACIP) at the Centers for Disease Control & Prevention (CDC) approved recommendations for influenza vaccines for the 2025/2026 influenza season on August 28. These recommendations are amidst a controversial shake-up in which the Senate-confirmed CDC Director Susan Monarez was terminated and three CDC officials resigned after the Director refused to sign-off on ACIP recommendations for the COVID-19 vaccine which reportedly conflicted with available evidence. At this time, the influenza vaccine is recommended for all individuals over the age of six months, with high-dose or adjuvanted influenza vaccines recommended for individuals aged 65 years and older. Influenza season is considered to run October 1 – March 31 each year with vaccination recommended to occur in September or October to offer the best protection, however, vaccines may be given throughout the season to eligible individuals.

The Requirements of Participation (RoP) outline that nursing home providers must provide education and offer influenza vaccines to all residents. You can access the CDC's Vaccine Information Statements (VIS) which can be used for education on available vaccines [here](#). Additionally, providers must track employee influenza vaccination status and report at least once to the National Healthcare Safety Network (NHSN) by May 15, 2026.

CMS Issues Final MDS RAI Manual for October 1

The Centers for Medicare & Medicaid Services (CMS) released the final draft of the MDS 3.0 Resident Assessment Instrument (RAI) Manual for the Minimum Data Set (MDS) version 1.20.1 which will be effective October 1, 2025. You can access the final draft of the RAI manual on the [CMS MDS RAI Manual website](#) as well as change tables and other MDS resources.

New Member Resource – Beyond the Standard

We are pleased to offer a new member resource entitled “Beyond the Standard”. This member resource offers ready-to-use worksheets and guidance to implement into your quality assurance processes. You can access the ***NEW*** [Beyond the Standard website](#) here along with the first resource for antipsychotic medications including a [spreadsheet](#) that can be used for your data driven documentation and this [guidance document](#) identifying what must be monitored to accurately determine your numerator and

denominators. Please send any feedback to [Kellie Van Ree, Director of Clinical Services](#). If you need help identifying possible action plans to reduce antipsychotic medications in your building don't forget that we also have the [Driving Quality: Navigating Healthcare webcasts](#) available!

Member Feedback – Assisted Living & GDS

Recently I've heard more questions about the use of the GDS as you are required to use based on Iowa rules. Based on some research, the GDS is not something that providers are widely using and it is difficult to incorporate into service planning. DIAL is currently reviewing the AL rules for their red-tape review and we had the idea of proposing a change in this requirement, however, we don't want to inadvertently loop more programs into being a dementia-specific program.

What we would like to do is remove the language about the GDS stages 4-7 and replace it with moderately to severely cognitively impaired. Based on this can you please let me know if:

1. Do you currently have confusion or questions on the use of the GDS?
2. What tool would you prefer to implement in lieu of the GDS?
3. This is helpful to provide some clarity or would you prefer to stay with the GDS language?
4. Would this change inadvertently include your program as a dementia-specific program which requires you to have alarmed doors and additional education?
5. Any additional information that you would like to let us know on this topic?

Upcoming Events

Regional Networking Meeting (in-person)

September 8, 2025 from 11:30 a.m.-2:30 p.m. (lunch included)

Location: Martin Bros. Solutions Center, 312 Viking Road, Cedar Falls, IA 50613

Sponsored by: Plunkett Raysich Architects, LLP

Navigating OBBBA: What Senior Living Providers Need to Know (virtual)

September 9, 2025 from 10-11 a.m.

All those Challenges, Changes, & Completing Notifications: Creating a Comprehensive Plan to Cover all the Contingencies (virtual)

September 10, 2025 from 1 - 2:30 p.m.

Leadership Retreat (in-person)

September 29, 2025 from 9 a.m.-4:30 p.m. and September 30, 2025 from 8 a.m.-1 p.m.

Location: DeSoto House, 230 S. Main Street, Galena, IL 61036