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AHCA Wins FMAP Extension Battle

Grassroots Speak Out, Washington Listens—And Acts

The power of AHCA and its grassroots membership to effect meaningful legislative change on Capitol Hill has been affirmed by the recent enactment of an extension of enhanced federal medical funding, or FMAP.

Thousands of nursing facility residents, family members, staff, and local communities joined with providers to draw attention to long term care funding needs and the threat posed by the prospect of Medicaid cuts. AHCA drew attention to the issue with a high-profile cross-country RV tour, Driving

for Quality Care, and a massive letter-writing campaign that generated 83,120 letters to 529 members of Congress between May 4 and Aug. 10.

The FMAP extension, enacted about halfway through the RV tour, will give states an infusion of \$16 billion in Medicaid funding through June 2011.

AHCA described its passage as a significant triumph for frail seniors who rely on Medicaid for vital nursing facility and long term care services.

“We applaud the congressional champions who took a stand and voted for this legislation—not just for taking the time to understand the complexities of the issue and the threat to seniors’ care—but also for actually doing something to address the

problem,” said Bruce Yarwood, AHCA president and chief executive officer (CEO).

The Driving For Quality Care tour started in Washington, D.C., at the end of June and will end in California at the organization’s annual Convention & Expo in October, with 60 stops in 40 states along the way. Each stop is marked by a facility event attended by residents, staff, family members, elected officials and their representatives, and community members to convey the message that nursing facilities cannot absorb additional Medicare and Medicaid funding cuts.

Local media coverage—including television, radio, and print reports—of each event has advanced the message, helping to communicate to the public the link between funding cuts and long term care for frail seniors.

At each event, attendees have sent that message to Capitol Hill by adding their names to a petition drive, electronically or by hand. By Aug. 10, when the decisive FMAP vote was cast in the House of Representatives, thousands of people had signed the petition.

As lawmakers cast the 247-161 vote, AHCA’s RV tour was in the nation’s heartland, at Sells Rest Home in Matthews, Mo.

“Here we are, the 30th stop in

continued on page 3



Residents pose for a photo at Sells Rest Home in Matthews, Mo., while Jon Dolan, right, executive director of the Missouri Health Care Association, addresses the rally, on Aug. 10.



Straight From The Heart

You could have heard a pin drop when a resident from UniHealth Post Acute Care of Augusta Hills stood to speak before a standing-room-only crowd of more than 100, said Kimberli Black, senior nurse consultant.

members, or caregiving staff spoke about their personal experiences and concerns and the need for adequate funding.

At Augusta Hills, a family member also spoke about how active her mother

day,” Black says. If he misses a visit, staff call the daughter, so that she can check on him and make sure he is well.

Among the crowd that heard the appeals were representatives from the offices of three members of Congress, one of whom read a letter from Rep. Saxby Chambliss (R-Ga.), Black said.

Neil Pruitt Jr., chairman and CEO of UHS Pruitt, which owns the facility, also spoke, encouraging everyone to sign the petition for adequate funding.

The events along the tour route raised awareness at the local level of the link between Medicaid funding and long term care, says Stephen Raines, administrator of the 162-bed Prattville Health and Rehabilitation Center in Alabama.

Raines, along with representatives of the Alabama Nursing Home Association, a family member, resident, and caregiver, “spoke about the impact that [\$16 billion in Medicare and Medicaid] cuts are going to have on seniors for years to come,” Raines says, referring to the 10-year cuts to nursing facilities that have been signed into law as part of the Patient Protection and Affordability Care Act. “Bringing awareness to family members and elected officials is very important,” he says.

Three local television networks from the Montgomery area covered the Aug. 3 event. In fact, based on circulation and media market data, AHCA estimates that by September, its message had reached 4 million households through print, television, and radio coverage.

While Raines is pleased about the outcome of the FMAP vote, he knows it is not the end of the struggle for stable long term care financing.

“The passage of FMAP was important. It’s something we were hoping would pass,” he says. “But we have to continue every year to try to fund these programs.” ❀

Far left: Rep. Leonard Boswell (D-Iowa) adds his signature to petition after attending an Aug. 12 rally at University Park Nursing and Rehab in Des Moines. Left: “I wouldn’t want to be anywhere else,” says Ms. Pemberton, resident, to the crowd at Dunbar Village in Bay St. Louis, Miss., Aug. 4.



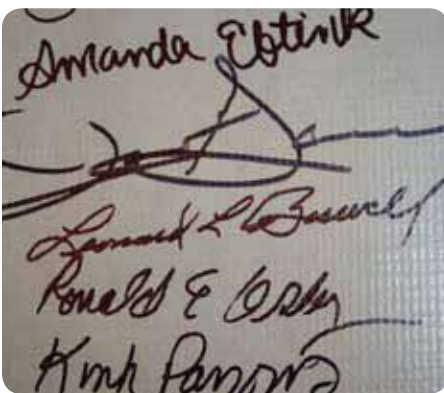
UniHealth Administrator Leigh Breedlove welcomes a July 27 crowd in Augusta, Maine.

One of the younger, long-time residents at the 126-bed facility, John, stood to say, “Please don’t cut our money. Please stand up for us,” Black recalled.

The AHCA Driving For Quality Care RV stopped at Augusta, Ga., on July 27. As in many of the other stops along the way, the most powerful moments occurred when residents, family

had been until she had a stroke and the care she now receives at the facility.

“Her dad visits her mother twice a



the nation on the day that FMAP's being voted on in Washington, D.C.," said John Dolan, executive director of the Missouri Health Care Association, who attended the event.

"What an important thing for all of us, and a milestone that we're honored to have," said Dolan in a YouTube video

additional FMAP funding means that the complex needs of individuals who rely on Medicaid for skilled nursing care can continue to be met, at a time when states are grappling with severe fiscal crises and competing budget priorities, said Yarwood.

House Speaker Nancy Pelosi (D-Calif.)



Brinton Manor staff, in Brinton Manor, Pa., display signs of support at early June RV stop.

recorded at the event.

With a population of less than 1,000, the town of Matthews greeted the RV tour with enthusiasm. Town and facility residents, as well as employees from the Sells Rest Home, "are so excited about the opportunity to see the Quality RV tour and also understand the importance of nursing homes in our small rural communities," Dolan said.

According to projections from the Center for Budget Policy and Priorities, the FMAP bill will generate an additional \$292 million in Medicaid funding for Missouri.

Nationwide, the

took the unusual step of calling the House back into session for the vote. Lawmakers had already returned to their districts for the August recess.

"The rare return of the House speaks to the importance of protecting our nation's seniors in nursing and assisted living facilities," Yarwood said. ❁

'Based on circulation and media market data, AHCA estimates that by September, its message had reached 4 million households through print, television, and radio coverage.'

AHCA Praises Survey Reform Bill

Legislation that would streamline the survey process for high-quality providers and inject greater consistency in the application of survey results for all facilities was welcomed by AHCA as a much-needed modernization of the current survey and certification system.

The bill, introduced by Rep. Bart Stupak (D-Mich.), would designate a top tier of nursing facilities, the criteria for which would be defined by the secretary of Health and Human Services (HHS).

These high-performing providers would be subject to standard surveys every 36 months, as opposed to the current 12-month interval.

During the off years, top-tier providers would be subject to a half-day on-site review of quality-of-life and safety issues.

The bill would also require states to implement programs "to measure and reduce inconsistency in the application of survey results [including the results of both health surveys and life safety surveys] among surveyors."

The HHS secretary would be required to provide oversight adequate to ensure consistency within and across states. In addition, the secretary would ensure "a fair and timely appeals process for surveys" and report to Congress annually on actions taken to ensure consistency in the survey process.

The legislation would allow surveyors to direct their efforts more intently on problem sites, rather than focusing on high-performing facilities, AHCA said.

The bill also addresses the longstanding issue of inconsistent survey results, which AHCA says creates a confounding patchwork of standards both within states and across regions. ❁

AHCA To CMS: Scrap Civil Money Penalty Proposed Rule And Start Over

The Centers for Medicare & Medicaid Services' (CMS) proposed rule for revamping the nursing facility civil money penalty (CMP) process is so flawed that it should be withdrawn and replaced with "a new proposed rule that is consistent with and could achieve the potential of the underlying legislation,"

AHCA said in comments on the proposal.

That legislation, the Patient Protection and Affordable Care Act (PPACA), included critical changes to the CMP process.

The PPACA gave CMS "the

opportunity to establish a speedy and fair mechanism to review the factual and legal basis for imposition of the CMP, to review the reasonableness of a CMP, and to secure expeditious collection of a CMP while other appeals are pending," said the 13-page

'At its core, the proposed rule simply adds another layer to the existing unwieldy and complex enforcement system.'

comment letter from AHCA President and CEO Bruce Yarwood. Rather than seizing this opportunity, however, CMS drafted a rule that distorts "the letter and spirit" of the statute, Yarwood said in the August comments.


For example, the statute requires that

providers have an opportunity for an independent review of CMPs within 30 days of their imposition.

CMS proposed implementing this requirement by handing the review process to state survey agencies. AHCA contends that survey agencies cannot possibly be deemed independent when their own surveyors provide the basis for CMPs.


Furthermore, CMS proposes the imposition of provider user fees to finance independent review, thereby "discouraging its use," AHCA said.

"At its core, the proposed rule simply adds another layer to the existing unwieldy and complex enforcement system, creating new regulatory problems, and ignoring the ones that already plague nursing homes," AHCA said. ❁




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LTC Collaborative Seeks Federal Funds For Information Technology

A group founded by AHCA and other long term care provider organizations is pushing for federal funding to support the adoption of health information technology (HIT) in long term care settings.

The Long Term and Post Acute Care (LTPAC) HIT Collaborative is urging the secretary of Health and Human Services (HHS) to direct some of the \$2 billion from the American Recovery and Reinvestment Act of 2009, which was earmarked for HIT, to long term care providers.

Most of the HIT funding from the stimulus bill was targeted to hospitals and physicians, but a portion was set aside for entities outside of those providers.

In a letter to HHS Secretary Kathleen Sebelius, the collaborative outlined a five-point “starter funding” agenda for the long term care sector, consisting of direct grants and loans to providers for HIT acquisition and upgrading, as well as funding for technical support, staff training, and expansion of networks to include long term care providers.

In the letter, the group pointed out that 2.5 million patients are cared for daily in LTPAC settings, and costs are projected to reach \$226.4 billion in 2010. The inclusion of long term and post-acute care providers in the deployment of electronic health records is crucial to maximizing their effectiveness, the collaborative says.

“HIT has the potential to transform dramatically our health care system by facilitating care coordination and disease management, minimizing medical errors, improving outcomes, reducing costs, and empowering patients,” the group said in a statement submitted for a July 20 hearing of the House Ways and Means health subcommittee on the adoption and promotion of HIT.

“However, these benefits cannot be fully realized unless the technology is interoperable and available along the

entire spectrum of care.” In both the hearing statement and letter to Sebelius, the LTPAC Collaborative pointed out that one-third of patients who leave the hospital are discharged to a long term or post-acute setting for further care.

“Successfully preventing avoidable readmissions requires coordination of care with LTPAC providers,” the letter said.

In the hearing statement, LTPAC

went further, pointing out that nearly 40 percent of hospital patients who are discharged to nursing facilities are readmitted “due to inadequate discharge planning,” which in turn is often due to “the failure of hospitals to exchange timely and necessary health information with long term care providers.”

To exclude long term care from the continuum of electronic health records “will jeopardize patient safety,” LTPAC said. ❀

On The Road Again

The AHCA RV tour isn’t resting on the laurels of the FMAP legislative success. The short-term battle for critical Medicaid funding has been won, but the long-term need for stable Medicare and Medicaid funding goes on—and so does the Driving for Quality Care RV tour.

AHCA and its grassroots membership are continuing an intensive schedule of daily events, appreciative of the response from Congress to their appeals for emergency Medicaid relief. The

FMAP funding will help to protect local caregiver jobs, which are critical to the preservation of quality care. In 2009 alone, the long term care profession created 50,000 new jobs—jobs that cannot be outsourced.

But there is more work to be done. Just as Congress responded to the need for funding, so must elected officials in state capitols and legislatures where decisions about how to spend the additional FMAP funding will be made. The goal is to ensure that even as states continue

to struggle with budget deficits, the needs of frail elderly residents are met without jeopardizing access to or quality of long term care services.

There is also a long-term need to create an adequate, stable funding base for long term care, especially at a time when the first baby boomers will hit retirement age next year. ❀



Resident and staff member sign petition at Good Samaritan Society – Davenport, in Davenport, Iowa, Aug. 13.

AHCA Calls For National Drug Disposal System

Long term care providers are anxious to work with federal agencies to develop a national system for the safe disposal of unused pharmaceuticals, AHCA said in a statement submitted to the Senate Special Committee on Aging for a hearing on the issue.

The safe handling of prescription drugs is critical to ensuring that they are not “tampered with or diverted for other uses” and that disposal is environmentally sound, AHCA said.

The statement described the current “complex and confusing” patchwork of federal and state rules governing disposal.

“Many long term care facilities are able to return noncontrolled drugs to



the pharmacy for disposal, some states allow for incineration of unused and unwanted medications, other states require medications to be destroyed in the facility and flushed into the sewer; however, certain states do not allow for sewer disposal—leaving long term care facilities with no disposal options for controlled substances,” AHCA said.

AHCA said it supports a “national approach for dealing with drug waste and disposal” that would “allow providers to send unused drugs to an authorized collecting entity” for safe disposal.

Furthermore, all unused and outdated medications—including controlled substances—should be handled through a single system “to minimize program costs, confusion resulting from having to contend with multiple and sometimes

conflicting regulations, and the burden associated with managing duplicative efforts,” AHCA said.

AHCA also urged lawmakers to address providers’ concerns on the use of controlled substances in nursing facilities. Restrictions imposed by the federal Drug Enforcement Agency have inhibited the timely provision of controlled pain medications in long term care settings, a problem that AHCA has worked for months to resolve, and which it described in an earlier public meeting held by the Senate Aging Committee.

A rapidly aging population means that a growing number of Americans need long term care now and in the future, AHCA said. As a result, it’s “imperative that solutions” to drug-related issues, including access to “much-needed pain medication, be addressed expediently,” the statement said. ❖

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Modify Or Eliminate Observation Stays: AHCA

The practice of designating days spent in a hospital as “observation stays” should be scrutinized and targeted for overhaul or outright elimination, AHCA told an advisory panel.

In Aug. 2 comments to the Advisory Panel on Ambulatory Payment Classification (APC) Groups, AHCA said that observation stays are defined in Medicare manuals as a “set of specific, clinically appropriate services, which include ongoing short-term treatment, assessment, and reassessment” provided while a decision is being made about whether a patient needs hospital care or can be discharged.

The problem is that days spent in observation are not classified as inpatient stays and often last longer than the 24 to 48 hours recommended in Medicare manuals.

Observation stays can therefore have the “disastrous result” of compromising a patient’s eligibility for nursing facility care by encroaching on the requirement for a prior three-day hospital stay, AHCA said.

In its comments to the advisory panel, AHCA said patients who enter a nursing facility after four days in the hospital, two or more of which were spent in observation, are likely to be unaware that their care is not covered for lack of the necessary three-day prior hospital stays. The comment letter referred to newspaper articles on the problem and specific examples of the “unfortunate consequences of inappropriately lengthy observation stays” reported by the Minnesota Health Care Association, an AHCA state affiliate.

To remedy the situation, patients should first be fully protected from situations in which an observation stay undermines Medicare coverage for nursing facility care, AHCA said. This is especially important in the wake of the Patient Protection and Affordable Care Act, which emphasizes person-centered care that is “seamless, thorough, coordinated, integrated, and with a very strong emphasis on care transitions.”

The advisory panel—which will make recommendations to CMS as the agency updates hospital outpatient PPS rates for calendar year 2011—should make a determination that “days spent in an observation or emergency room preceding a normal inpatient stay should count as part of the inpatient stay for the purpose of the three-day qualifying stay, just as they count toward the inpatient stay for purposes of hospital DRG [diagnosis related group] reimbursement,” AHCA told the panel.

The comments further suggested creating a DRG for observation, in recognition of the reality that a “patient admitted to a bed is in the hospital.” CMS can then “adjust the weight of the DRG” to reflect the level of hospital care as an alternative to “depriving the patient of needed subsequent Medicare covered post-hospital care,” AHCA said.

“It is time that the concept [of observation stay] undergoes scrutiny, and modification or elimination,” the comments said. ❀

AHCA Outlines Notice Of PPS Changes

Skilled nursing facilities will receive a 1.7 percent net increase in Medicare Part A payments in fiscal year 2011, CMS announced in the agency’s annual notice of prospective payment system changes.

AHCA summarized the notice and listed its highlights in a July 20 memorandum to the membership from Peter Gruhn, director of research.

The update translates to about \$542 million in additional Medicare funding, or \$7 to \$8 per patient day, AHCA said.

The CMS notice provides a full market basket increase of 2.3 percent, or about \$733 million, starting Oct. 1, 2010, but that is offset by a 0.6 percent reduction imposed by the agency to

will not be ready in time for mandatory implementation of the minimum data set (MDS) 3.0. “Consequently, CMS will make payments under the RUG-IV system on an interim basis, beginning with services dates of Oct. 1, 2010,” AHCA said. “CMS will retroactively adjust these payments once HR-III is implemented.”

Other highlights of the notice include:

- Continuation of the 128 percent increase in the per diem rate for nursing facility patients with acquired immune deficiency syndrome (AIDS), in effect since 2004.

- A labor-related weight for fiscal year 2011 of 69.31 percent, down from 69.84 percent in 2010. ❀

correct for a forecasting error in fiscal year 2009, AHCA said. AHCA highlights from the notice include CMS’ development of a new “hybrid” resource utilization group (RUG-Version 3, HR-III), which

Projected Impact To The SNF PPS For FY 2010

		FY 2011 w/RUG-IV	FY 2011 w/RUG-IV	FY 2011 w/HR-III	FY 2011 w/HR-III
	Wage Index	RUG-IV only	Total change	HR-III only	Total change
Total	0.0%	0.0%	1.7%	0.0%	1.7%
Urban	0.0%	0.2%	1.9%	0.1%	1.8%
Rural	0.0%	-0.9%	0.7%	-0.2%	1.5%
Hospital-based urban	-0.1%	-1.3%	0.3%	2.9%	4.6%
Freestanding urban	0.0%	0.3%	2.0%	0.0%	1.7%
Hospital-based rural	-0.1%	-0.7%	0.9%	3.3%	5.0%
Freestanding rural	0.0%	-1.0%	0.7%	-0.5%	1.2%
Government	0.0%	1.2%	2.9%	2.6%	4.3%
Proprietary	0.0%	-0.1%	1.6%	-0.4%	1.3%
Voluntary	-0.1%	0.2%	1.8%	1.3%	3.0%

Source: AHCA Overview of PPS Notice for Fiscal Year 2011

AHCA Selects Quality Award Winners

The roster of the AHCA and NCAL (National Center for Assisted Living) National Quality Award recipients continues to grow with this year's group of 501 facilities that have demonstrated their commitment to quality care for the nation's population of those who are frail, elderly, or have disabilities.

"We commend each of these organizations on this notable achievement in their quality journey," said Bruce Yarwood, AHCA/NCAL president and CEO.

Manchester Manor Health Care Center, in Manchester, Conn., was this year's recipient of the highest honor—a Gold Award for Excellence in Quality. Another 39 facilities were recognized

with a Silver Award for Achievement to Quality, while hundreds more took the Bronze Commitment to Quality Award.

Implemented in 1996, the AHCA/NCAL National Quality Award Program is based on the values and criteria of the rigorous and renowned Malcolm Baldrige National Quality Award Program.

AHCA's three-tiered award program begins with the development of an organizational profile, including vision and mission statements, and an awareness of environment and customers' expectations. Facilities that succeed at this level are eligible for the Bronze Award.



The Silver goes to facilities that demonstrate solid performance outcomes, strategies for achieving core values, concepts of visionary leadership, resident-focused excellence, and innovative management.

Applicants for the prestigious Gold Award must demonstrate that they are achieving high levels of performance in health care, customer satisfaction, market, workforce, process, and leadership outcomes over time. Gold Award recipients are required to address the Baldrige program's Health Care Criteria for Performance Excellence in its entirety.

The 2010 recipients will be presented with their awards during the AHCA/NCAL Oct. 10-13 Convention & Expo in Long Beach, Calif. ❁

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