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Time Winds Down For Health Bill

AHCA Pushing For Best Features From House And Senate Versions

On Dec. 24, the Senate took a Christmas Eve vote for the first time in 114 years, passing a massive health care reform bill that must now be reconciled with a starkly different House measure.



AHCA is working with House and Senate staff to achieve the best outcome for the nation's seniors in long term care facilities as the two bills go through a negotiations process that culminates in a final conference report.

Overall, AHCA considers the Senate bill to be more favorable, due to its more moderate level of Medicare cuts, less restrictive

language in its transparency provisions, and a requirement that the new Medicare Commission consider both Medicaid and Medicare in its deliberations.

The House measure, however, includes a provision that AHCA strongly supports—\$6 billion in supplemental Medicaid funding over four years to help ease the program's chronic payment shortfall.

Major differences that are likely to be focal points for controversy

include the public option, which is part of the House bill but not the Senate. The House option would create a government-run health plan to participate in the insurance exchange, competing with private plans.

There are also funding differences. The House would tax high-income individuals, while the Senate would tax rich health plans that offer "Cadillac" benefits.

AHCA is working to retain the best of each bill. ❁

AHCA Rallies For \$6 Billion In Supplemental Medicaid Funds

AHCA is urging lawmakers to preserve \$6 billion in supplemental skilled nursing facility (SNF) Medicaid funding, as they negotiate differences in the House and Senate health care reform bills.

The Nursing Facility Supplemental Payment Program was included in the House version of the bill to bring funding relief to SNFs that care for a high percentage of Medicare and Medicaid residents. The \$6 billion in supplemental funds would be distributed over four years.

AHCA Chair Robert Van Dyk praised the measure as "a first step in acknowledging the nation's chronic

Medicaid underfunding crisis." The Senate reform bill did not include the program, and AHCA is working to ensure that it is included in the final version of the legislation.

Rep. Zack Space (D-Ohio) is gathering signatures from his House colleagues on a letter addressed to Speaker Nancy Pelosi (D-Calif.), asking her to "work with Majority Leader Reid to ensure that this provision is included in the final health care reform conference report." The supplemental program "is vital to the continued viability of high-quality skilled nursing care to 1.7 million frail elderly and

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AHCA Keeps Focus On LTC As Economic Engine

As President Obama convened a December summit aimed at exploring ideas for generating jobs and economic growth, AHCA applauded the event and focused on the importance of a healthy long term care sector to employment and economic activity.

As an employer, long term care is larger even than Wal-Mart, according to an AHCA and Lewin Group analysis. With 4.5 million workers, long term care accounts for 27.4 percent of the health care sector's total employment and supports an estimated \$372 billion of the nation's annual economic activity.

"The long term care industry is well-positioned to be a significant driver of economic recovery and job creation, and preserving its ongoing economic stability should be a key policy priority as health care reform deliberations proceed on Capitol Hill," said a statement from AHCA Chair Robert Van Dyk and Alan Rosenbloom, president of the Alliance for Quality Nursing Home Care.

Sustaining the economic viability of the long term care sector "will strengthen seniors' access to quality long term care and assist our efforts to serve as an effective cornerstone in bolstering our ailing national and state economies."

In 2007, nursing facilities had more than 100,000 openings for nurses, certified nurse assistants, and therapists—jobs that "make a tangible qualitative difference in the lives of seniors, and which contribute significantly to local economic activity," AHCA said. "Because skilled nursing facilities devote a full 70 percent of operating expenses to wages, benefits, and other labor costs, Medicare funding stability from Washington equates to staffing stability locally," Van Dyk and Rosenbloom said. ❁

As Medicaid Shortfall Rises, Medicare Is 'Literal Lifeline,' AHCA Exec Says

A new report documenting the escalating shortfall in nursing facilities' Medicaid reimbursement affirms what AHCA and its membership have been telling lawmakers on Capitol Hill as they shape a health care reform bill: Deep Medicare cuts pose a serious threat to providers' fiscal survival and to the care of seniors in nursing facilities.

"Medicare cross-subsidization of Medicaid continues to play an important role in sustaining nursing home care," said the report, produced annually for AHCA by Eljay LLC.

Eljay found that the projected shortfall in daily Medicaid payments to nursing facilities reached \$14.17 per resident in 2009, totaling nearly \$4.7 billion nationwide.

In the past decade, the shortfall has grown 56.5 percent, from \$9.05 per resident day in 1999, Eljay reported. The payment deficit is expected to worsen over the next two years, as enhanced federal matching rates funded through the American Recovery and Reinvestment Act expire, state budget crises deepen, and Medicaid rates stagnate or drop in many states, the report said.

"As the already vast gap between the

actual cost of providing quality elder care and what the Medicaid program actually finances continues to grow, Medicare-funded nursing home care increasingly serves as a literal lifeline to providers and the 1.7 million U.S. seniors under our care," said Robert Van Dyk, chair of AHCA, in a statement on the report.

For months, AHCA and its membership have warned that the Medicare lifeline would be severely compromised by the deep cuts proposed to finance health care reform. The bill passed by the House of Representatives would cut \$23.9 billion from nursing facilities' Medicare reimbursement over 10 years, while the Senate bill includes a more moderate \$14.6 billion reduction. These cuts would compound the blow to Medicare funding from a Centers for Medicare & Medicaid Services rule that will slash as much as \$16 billion from nursing facility payments over the next 10 years.

Eljay reported that, taking into account the newly implemented first-year cuts from the CMS rule, the Medicare and Medicaid programs will produce a blended nursing facility margin of negative 2.6 percent. ❁

State Medicaid Crisis Underscores

While providers nationwide struggle with the burden of a Medicaid program that fails to cover the cost of care, 10 states lead the pack in the magnitude of their losses, according to the 2009 Medicaid shortfall report from Eljay LLC.

Wisconsin tops the list, with a shortfall of \$28.41 in the per-patient daily rate, followed by New Jersey's per diem deficit of \$25.13. Massachusetts places third, with a daily rate that is \$24.95 less than the cost of care. The unenviable top 10 list is filled out by New York, with a shortfall of \$24.10; Wyoming (\$23.06); Illinois (\$20.80); Minnesota (\$20.31);

Missouri (\$19.15); Nebraska (\$19.09); and Rhode Island (\$18.80).

Several of those states also yielded the largest amount of Medicaid underfunding in aggregate dollars:

New York, \$688.3 million; Illinois, \$359.6 million; Ohio, \$306.1 million; Texas, \$271.1 million; New Jersey, \$264.2 million; Pennsylvania, \$254 million; Massachusetts, \$251.4 million; Florida, \$235.1 million; California, \$219.6 million; and

Wisconsin, \$201.4 million.

AHCA Chair Robert Van Dyk said the dramatic underfunding in states



AHCA Works With EPA To Achieve Energy Savings For Providers

AHCA is working with other long term care organizations and the Environmental Protection Agency (EPA) to help create an Energy Star rating system for senior care communities, including nursing and assisted living facilities.

Energy Star is a voluntary EPA program that provides tools and resources to help participants save money and protect the environment through energy savings.

“Now more than ever, senior care communities are struggling with higher energy costs,” said a memo from AHCA to its membership. With electricity prices expected to climb an average of 9.8 percent in 2009, AHCA has teamed with the American Association of Homes and Services for the Aging, the American Seniors Housing Association, the Assisted Living Federation of America, and EPA to help manage energy use and “demonstrate environmental stewardship” in senior care settings, AHCA said.

AHCA, along with the other

participating organizations, have issued a first-ever energy survey to their memberships. The goal of the survey is to gather “national benchmarking information on energy consumption, costs, fuel sources, and services that drive energy use in senior care communities,” AHCA said.

The findings will help providers “reduce energy costs, improve your operating margin, and protect the environment,” the memo said.

Survey results will also help EPA create an Energy Star rating system for senior care communities, which will “greatly benefit providers by giving maintenance managers a better understanding of their energy use and the ability to track and evaluate the effectiveness of operations and technical conservation strategies,” AHCA said.

More information about the initiative and Energy Star resources can be found on the AHCA Web site: http://www.ahcancal.org/facility_operations/Pages/EPAEnergyStarMemo.aspx. ❀

Facility Welcomes Visiting Lawmaker



The Courtyards at Pasadena, in Pasadena, Texas, was one of many AHCA members during a long fall campaign that hosted members of Congress to educate them on why the Medicare cuts in the national health reform bills would devastate skilled nursing facilities. Above, U.S. Rep. Gene Green (D-Texas), who appreciated the impact of the cuts, visits with Courtyards resident Helen Tieken.

Need To Evaluate Programs In Tandem

with the largest gaps draws attention to the need for lawmakers to consider the condition of the Medicaid program as they advance health care reform legislation on Capitol Hill.

“The substantial gap between the cost of providing quality care to seniors and what Medicaid actually pays—combined with the enormous pressure on state budgets caused by the ongoing recession—represents a clear and present danger to America’s most vulnerable frail, elderly, and disabled citizens,” Van Dyk warned.

“With our national and state

economies in a historic downturn, these state data serve as a stark reminder of the vital importance to evaluate both Medicare and Medicaid funding as a final federal health care reform bill takes shape.

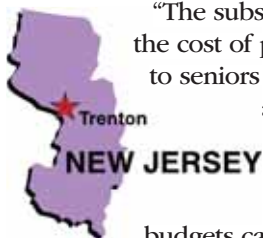
At stake is seniors’ ongoing access to quality care, sustaining a strong long term care workforce and local jobs base, and the very ability of our sector to remain strong in the face of challenging demographic realities.”

Van Dyk praised Sen. Ron Wyden (D-Ore.) for his work to include a provision in the Senate health reform

bill that would require the Medicare Payment Advisory Committee (MedPAC) to review and report on Medicaid funding when making recommendations about Medicare.

This would “help get to the root of the decade-long Medicaid underfunding crisis,” AHCA said in a statement.

MedPAC recently issued payment recommendations for fiscal year 2011 in which the panel again advised Congress to deny a market basket update for skilled nursing facilities—a recommendation that has been repeated by MedPAC for several years. ❀



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NEW IN 2010!

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- New Bronze and Silver Criteria: Changes have been made to the Bronze and the Silver criteria. Please ensure that you are working from the 2010 criteria when writing your application!

APPLICATION PROCEDURES

All long term care organizations that are members in good standing of the AHCA and NCAL are eligible to participate. Please visit www.ahca.org to for full eligibility requirements and to download an application packet.

Application Deadlines
Bronze - February 26, 2010
Silver - March 31, 2010
Gold - March 31, 2010

Pain Medication Delayed Due To New DEA Enforcement Policy

Nursing facility residents are suffering delays ranging from one hour to more than two days for the administration of prescribed narcotics needed to relieve pain, according to survey results from

transmitting them to the pharmacy to be filled. Instead, physicians must now write each prescription and send it to the pharmacy themselves. Pharmacies that violate the protocol are subject to significant fines.

In an October letter to Attorney General Eric Holder, two key senators—Sen. Herb Kohl (D-Wis.), chairman of the Senate Special Committee on Aging, and Sen. Sheldon Whitehouse (D-R.I.), a committee member—suggested that this is not a viable protocol for the timely delivery of pain medication. Citing data from the American Medical Directors Association, the senators said “40 percent of physicians who see patients in long term care settings do not have an office practice” from which to write and transmit orders, and



A nurse working at the Methodist Home of the District of Columbia shows Senate staff members the procedures for accessing patient drug prescriptions from a locked cabinet on the floor's nursing station.

those who do have offices are only there part-time. “These practitioners rely upon nurses to submit their medication orders, including those subject to controls under the CSA, to the appropriate pharmacy,” the letter said.

the Quality Care Coalition for Patients in Pain (QCCPP). The delays stem from enhanced enforcement by the Drug Enforcement Administration (DEA) of restrictions in the federal Controlled Substances Act (CSA), which governs the prescribing of narcotics, such as morphine, used to relieve the pain of chronically and terminally ill patients in nursing facilities.

DEA's stepped-up enforcement has disrupted the long-standing, well-established practice of long term care nurses transcribing physician medication orders for CSA-controlled drugs and

those who do have offices are only there part-time. “These practitioners rely upon nurses to submit their medication orders, including those subject to controls under the CSA, to the appropriate pharmacy,” the letter said.

In a Dec. 2 response to the senators, Holder said that just because long term care facilities had established “improper patterns of behavior relating to the prescribing of controlled substances,” it does not mean that such conduct should be “declared permissible going forward.”

To demonstrate the impact of DEA's actions, QCCPP—the pain

coalition—conducted a survey that drew 899 responses from providers in 46 states.

Nearly two-thirds, 65.4 percent, of respondents said they had experienced delays in getting controlled pain medication to patients, says Sandra Fitzler, AHCA's senior director of clinical

operations. Eight percent said they experienced delays of up to one hour, 40 percent said delays were as long as one day, 40 reported delays of one to two days, and 12 percent said delays of two or more days had occurred.

QCCPP was formed to seek changes to the CSA to address the prescribing

needs in long term care settings. The 10-member group includes AHCA, the American Pharmacists Association, the American Society of Consultant Pharmacists, the National Hospice and Palliative Care Organization, and the American Association of Homes and Services for the Aging. ❁

AHCA Endorses Report Calling For 'Balanced Approach' To Regulating Pain Meds

AHCA has endorsed a November report entitled, "A Call to Revolutionize Pain Care in America: An Opportunity in Health Care Reform," which lays out 10 recommendations for improving pain care, including a more "balanced approach to the regulation of controlled prescription drugs, particularly opioids."

The report—from the New York-based Mayday Fund, a nonprofit dedicated to "alleviating the incidence, degree, and consequences of human physical pain"—comes at a time when AHCA and other organizations are urging the Drug Enforcement Agency (DEA) to work with long term care providers on a more reasonable approach to prescribing methods in nursing facilities (see related story). In an effort to reduce the risk of drug diversion, DEA has tightened enforcement policies for the prescription of narcotic pain relievers in nursing facilities, resulting in significant delays in needed treatment. The heart of the problem is DEA's refusal to recognize long term care nurses as valid "agents" of the physician prescriber, despite the longstanding practice of nurses transcribing and transmitting physician orders to pharmacies.

"The clinical decisions of prescribers should not be inappropriately influenced by fear of regulatory

scrutiny," said the Mayday report, which is based on findings of a national panel of experts in adult and pediatric pain, including Sandra Fitzler, AHCA's senior director of clinical services.

"A balance must be achieved between the

legitimate need to protect public safety and public health through efforts to reduce drug abuse and diversion and the imperative to address the public health problem of unrelieved pain. Policies and actions intended to reduce abuse or diversion must also include a comprehensive public analysis of these actions on access to quality and equitable pain care, including access to medications required for legitimate pain management. ❁



National Nursing Home Week Theme Emphasizes The Value Of Life

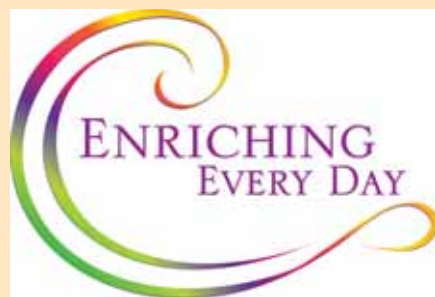
National Nursing Home Week (NNHW) 2010 will be celebrated in nursing and rehabilitation facilities nationwide, beginning Mother's Day, May 9, and continuing through May 15, 2010. The theme of the event, which is sponsored by AHCA, is Enriching Every Day, selected to honor those who are "enriching every day" for others, thus adding value to life and overcoming many of the infirmities of age and disability.

NNHW spotlights nursing facility residents and staff and encourages all to celebrate those that make a positive difference in their lives every day.

As it does each year, AHCA has developed a planning guide and promotional products for this observance, including thought-provoking activities to celebrate

the lives of residents and to recognize the quality of care provided in America's nursing and rehabilitation facilities.

The planning guide activities will be designed to foster intergenerational connections, strengthen relationships with family members, recognize all staff members and volunteers who demonstrate exceptional caregiving, and define quality on a day-to-day basis. ❁



Demand For Nurses Will Grow With Aging Population, Complex Care: AHCA

As the baby boom generation nears retirement age, and nursing facilities care for increasingly complex residents with multiple chronic conditions or post-acute care needs, the demand for long term care nurses will grow in coming years, AHCA said in written testimony to a national panel examining the future of nursing.

“Since our nation’s aging population continues to grow and the complexity of care continues to escalate, we anticipate that the need for highly skilled nurses also will continue to expand,” said AHCA in a statement prepared for a Dec. 3 Forum on the Future of Nursing: Community Health, Public Health, Primary Care, and Long Term Care.

“Patients who required extended

hospital stays just 20 years ago now routinely receive post-acute and rehabilitative care” before going home less than a month later, AHCA said. This shift to higher-acuity patients means that long term care facilities need “a more highly skilled workforce, including more nurses” who are prepared to provide this level of care, AHCA said.

The more than 625,000 nurses working in long term care “enjoy greater autonomy” than nurses in other settings, as physicians do not see patients on a daily basis, the statement said. With that autonomy, however, comes a higher level of demand on their skill sets.

“Not only must these nurses be competent and confident in terms of

medical proficiency, but they must be able to lead the entire caregiving staff to be effective coordinators of care, and to partner and communicate effectively with everyone from medical director and primary care physicians to patients and family members,” AHCA said.

To provide this crucial leadership training, the Nursing Home Collaborative formed in 2007, AHCA said. Its founding members include the five Hartford Centers of Geriatric Nursing Excellence, long term care nursing organizations, AHCA, and other representatives of the long term care sector.

The nursing forum drew more than 300 health care leaders, with 250 participants joining via a live Webcast. It was convened in Philadelphia by the



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Initiative on the Future of Nursing, a two-year joint effort of the Institute of Medicine and the Robert Wood Johnson Foundation.

Formed in July 2009, the initiative seeks to produce a “transformational

‘Patients who required extended hospital stays just 20 years ago now routinely receive post-acute and rehabilitative care.’

report on the future of nursing.” The report will include “bold national recommendations” and “define a clear agenda and blueprint for action” to address such challenges as the nursing shortage and capacity of the nursing education system. ❁

Medicaid Funds, continued from page 1 disabled each year,” as it “will help fill the growing gap between the cost of care and reimbursement rates,” says the letter to Pelosi.

The current shortfall in Medicaid payments, coupled with the proposed Medicare cuts in the House reform bill, “may have a very real impact on the availability of skilled nursing care to American consumers,” the letter says.

The Medicaid payment shortfall is expected to widen as states resort to desperate measures to address growing budget deficits. Providers in 22 states received no rate increase or suffered a rate cut for fiscal year 2010, while another nine states gave increases of less than 2 percent, according to the 2009 shortfall report by Eljay LLC. With nursing facility costs rising 3 percent a year, Eljay predicted that the payment shortfall would rise by another \$3.50 per Medicaid resident day in fiscal year 2010, from the 2009 deficit of \$14.17. The percentage of provider costs covered by Medicaid rates will likely drop below 90 percent for the first time since 2003, Eljay reported. ❁

Data Show Clear Gains In CMS Quality Measures

Nursing facilities made gains in two-thirds of the Centers for Medicare & Medicaid Services (CMS) quality measures between the fourth quarter of 2008 and the second quarter of 2009, according to data compiled by AHCA. From 4Q 2008 to 2Q 2009, 10 of the 15 measures showed improvement, while three remained flat, and two showed slight declines. Quality measures are updated quarterly and reported on the CMS Nursing Home Compare Web site.

| Quality Measure: Chronic Care | 4 th Quarter 2008/% of Residents | 2 nd Quarter 2009/% of Residents | Measure Improved | Measure Declined | No Change In Measure |
|---|---|---|------------------|------------------|----------------------|
| Pain | 3.9 | 3.4 | x | | |
| High-Risk Pressure Ulcer | 11.6 | 11.3 | x | | |
| Low-Risk Pressure Ulcer | 1.9 | 1.9 | | | x |
| Physical Restraint | 3.9 | 3.5 | x | | |
| Depression | 14.3 | 14.5 | | x | |
| Weight Loss | 7.9 | 7.9 | | | x |
| ADL (% needing help with) | 15.4 | 14.7 | x | | |
| Bedfast | 4.2 | 4.0 | x | | |
| Locomotion (% worsening) | 11.8 | 11.4 | x | | |
| Indwelling Catheter | 5.3 | 5.3 | | | x |
| Incontinence | 50.1 | 50.3 | | x | |
| Urinary Tract Infection | 9.2 | 9.1 | x | | |
| Quality Measure: Post Acute Care | | | | | |
| Delirium | 1.7 | 1.5 | x | | |
| Pain | 20.6 | 19 | x | | |
| Pressure Ulcer | 14.2 | 14 | x | | |

Source: CMS, AHCA

AHCA Partners With Retailers To Ease Vaccine Shortage

In response to a shortage of seasonal flu vaccine available to nursing facilities, AHCA has partnered with several retailers and pharmacies to sell vaccines to facilities or provide flu clinics for them.

AHCA secured such partnerships with Safeway, Walgreens, and Maxim Wellness.

It has also worked closely with the Centers for Disease Control and Prevention to encourage vaccine

manufacturers to help steer vaccine to long term care facilities.

In states where Safeway operates, AHCA members experiencing a vaccine shortage are able to e-mail Safeway corporate contacts, who then connect facilities in need to stores with vaccines. AHCA also developed a brief online survey for facilities needing vaccine. The information is sent to Walgreens, Safeway, and Maxim, which put their nearest stores or clinics in contact with

the facilities. Within a few days of the survey being announced, 177 facilities had responded.

In a Nov. 24 *New York Times* article on the issue, Janice Zalen, AHCA's director of special programs, described the shortage as "a very big problem." An AHCA survey on the shortage found that 800 of the 1,000 nursing facility respondents "reported that they could not get enough vaccine," the newspaper said. ❁

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