

News Currents

In Brief

Voters Weigh In On Skilled Nursing Cuts

Respondents Concerned About Quality

Slashing Medicare funding to skilled nursing facilities (SNFs) could be politically damaging to some members of Congress, according to a recent national voter survey. According to the poll, conducted by Zogby International for the American Health Care Association (AHCA), 61 percent of likely voters would be less likely to reelect their U.S. representative if he or she voted for the Bush administration's fiscal year 2009 budget proposal to slice \$24 billion in Medicare payments to SNFs over five years.

Among the 1,105 respondents to the survey, 63 percent expressed opposition to Medicare cuts and freezes for SNFs, with close to half (45 percent) saying they were strongly opposed to such cuts.

Twenty-four percent of the respondents said they would support the cuts, while 10 percent said they were not informed enough about the issue to have an opinion.

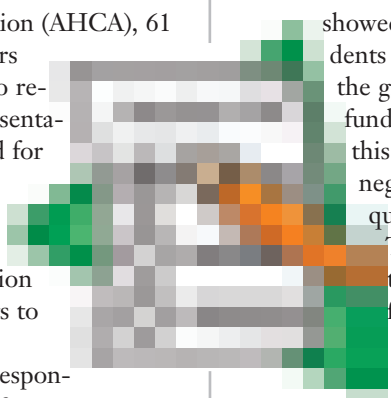
"This new poll, coming at a critical time in the budget process, shows strong bipartisan opposition to the Medicare cuts contained in the administration's budget plan," said Bruce Yarwood, AHCA president and chief executive officer, in response to the survey findings. "Our profession intends to clearly outline both here in Washington and in key states and congressional districts how these cuts

would undermine the quality of seniors' care, threaten facilities' staffing enhancement initiatives, and, because of the growing cross-subsidization problem, further destabilize state Medicaid programs."

Additional survey results showed that half of all respondents felt that reductions to the growth of Medicare funding for nursing facilities this year would result in a negative impact on the quality of care for seniors. Twelve percent believed those changes could force seniors to relocate many miles from family and friends, while another 4 percent said they think such cuts would result in a loss of local health care jobs.

Among those likely voters who expressed support for Medicare cuts, 14 percent agreed that the administration's proposal is tough, but needed in order to save the system. Nine percent did not think there will be any consequences should Medicare spending for nursing facilities be capped and reduced in the coming years, while 11 percent said they are not sure what the outcome would be if such caps and reductions are approved.

The respondents also weighed in on presidential candidates' stands on Medicare, with 73 percent supporting candidates who would not reduce spending for nursing facilities. These individuals also felt that such reduc-



Ventas Sells Common Stock, Nets \$192 Million

Louisville, Ky.-based Ventas recently netted more than \$191.9 million following the issuance and sale of 4.5 million shares of its common stock to UBS Investment Bank in an underwritten public offering, according to company officials. The shares were sold to the bank at \$42.78 per share.

Ventas will use the net proceeds to repay indebtedness outstanding under its revolving credit facility and for other general corporate purposes, including acquisitions.

In related news, Ventas' fourth quarter earnings results reported approximately \$2.2 billion in total investments for the company in 2007, including the acquisition of Sunrise Real Estate Investment Trust and more than \$150 million of medical office building acquisitions.

In January 2008, Ventas purchased a Texas seniors housing community for \$5.1 million and leased it to Capital Senior Living Corp., Dallas.

—Meg LaPorte

tions could lead to a loss of jobs and less quality care and could make it difficult for seniors to find a nursing facility close to family and friends.

The same poll also revealed that half of all respondents would be more likely to support a candidate who is in favor of increasing Medicare payment rates to physicians, even if such an increase results in less money for nursing facilities and other providers, while 37 percent said they would be less likely to support a representative who supports an increase in doctor funding from Medicare. Of those individuals, 14 percent said they would be much less likely to support such an elected official with that stance.

—Meg LaPorte

Kohl-Grassley Bill Off Track, AHCA Says

Act Would Require Ownership Transparency, New Fines

Legislation that would require greater transparency in the information available to consumers about nursing facility ownership and impose more stringent civil monetary penalties for quality violations has laudable objectives, but requires “substantial modification” to achieve meaningful reform, said a statement from the American Health Care Association (AHCA).

The Nursing Home Transparency and Improvement Act of 2008 (S 2641) was introduced by Sens. Herb Kohl (D-Wis.), chairman of the Senate Special Committee on Aging, and Charles Grassley (R-Iowa).

The bill would require nursing facilities to report to regulators and the public information about ownership, including the identity of individuals with an ownership or control interest; information on the members of the governing body; and information describing the organizational structure

of any affiliated or related parties, including principal officers and directors.

The bill would also require the posting of ownership information on CMS’ Nursing Home Compare Web site, where consumers go to retrieve detailed information about individual facilities.

The bill would also require annual independent audits for nursing facilities, require more detailed cost and staffing reports from facilities, and restructure fines to allow penalties of up to \$100,000 for a deficiency resulting in death and \$3,000 to \$25,000 for deficiencies at the level of actual harm or immediate jeopardy.

“AHCA concurs with Sens. Grassley and Kohl that consumers need useful, objective, and easily understood information about a facility’s performance to help inform their decisions regarding long term care,” said a statement from AHCA. However, the disclosure

of financial information to the extent required by the legislation would not have “the intended effect of providing additional useful information for consumers,” AHCA said.

“Such a mandate instead would create yet another administrative burden for long term care facilities, placing paperwork over patient care.”

AHCA also pointed out that when it comes to the imposition of fines, the Government Accountability Office has reported that CMS doesn’t fully use the authority it now has to impose penalties. “Rather than doubling those fines and requiring more immediate payment, as outlined in the new bill, we believe that CMS should be directed to better use its current authority,” AHCA said, adding that CMS has expressed concern that fines higher than \$200 per day could “significantly impair or even bankrupt some facilities.”

—Lynn Wagner

Stock Check

| PROVIDERS | Symbol | Where Traded | Current Price 1/31/08 | Adjusted P/E Ratio | Change From 1/1/08 | 52-Week Range High | 52-Week Range Low |
|------------------------------------|--------|--------------|-----------------------|--------------------|--------------------|--------------------|-------------------|
| Skilled Nursing | | | | | | | |
| Advocat | AVCA | NASDAQ | \$11.74 | 7.1 | 7% | \$17.69 | \$9.25 |
| Ensign Group | ENSG | NASDAQ | \$9.81 | 7.7 | -32% | \$16.65 | \$9.62 |
| Kindred Healthcare | KND | NYSE | \$27.54 | 11.4 | 10% | \$28.74 | \$17.35 |
| National HealthCare | NHC | AMEX | \$50.11 | 6.8 | -3% | \$57.50 | \$46.75 |
| Skilled Healthcare Group | SKH | NASDAQ | \$13.90 | 9.6 | -5% | \$16.81 | \$12.98 |
| Sun Healthcare Group | SUNH | NASDAQ | \$17.23 | 10.3 | 0% | \$18.78 | \$11.86 |
| Assisted/Independent Living | | | | | | | |
| Assisted Living Concepts | ALC | NYSE | \$6.59 | 10.4 | -12% | \$13.18 | \$6.00 |
| Brookdale Senior Living | BKD | NYSE | \$22.28 | 12.6 | -22% | \$49.94 | \$20.46 |
| Capital Senior Living | CSU | NYSE | \$7.66 | 11.3 | -23% | \$12.22 | \$6.32 |
| Emeritus Assisted Living | ESC | AMEX | \$22.15 | 16.8 | -12% | \$39.40 | \$19.99 |
| Five Star Quality Care | FVE | AMEX | \$7.60 | 9.4 | -8% | \$12.46 | \$6.07 |
| Sunrise Senior Living | SRZ | NYSE | \$28.71 | N/A | -6% | \$42.97 | \$24.64 |
| REITs | | | | | | | |
| Care Investment Trust* | CRE | NYSE | \$10.79 | 6.3% | 0% | \$14.80 | \$9.40 |
| Health Care Property Investors | HCP | NYSE | \$30.37 | 5.9% | -13% | \$42.11 | \$25.11 |
| Health Care REIT | HCN | NYSE | \$42.82 | 6.2% | -4% | \$48.55 | \$35.08 |
| Healthcare Realty Trust | HR | NYSE | \$25.83 | 6.0% | 2% | \$44.19 | \$18.00 |
| LTC Properties | LTC | NYSE | \$26.04 | 6.0% | 4% | \$29.25 | \$19.02 |
| National Health Investors | NHI | NYSE | \$29.56 | 6.8% | 6% | \$35.54 | \$27.00 |
| Nationwide Health Properties | NHP | NYSE | \$31.56 | 5.6% | 1% | \$35.01 | \$22.63 |
| Omega Healthcare | OHI | NYSE | \$16.35 | 7.1% | 2% | \$19.17 | \$12.00 |
| Senior Housing Properties Trust | SNH | NYSE | \$22.39 | 6.3% | -1% | \$26.83 | \$16.22 |
| Universal Health Realty | UHT | NYSE | \$36.05 | 6.4% | 2% | \$42.05 | \$28.23 |
| Ventas | VTR | NYSE | \$44.20 | 4.3% | -2% | \$47.97 | \$26.50 |

Quotes courtesy of www.seniorcareinvestor.com, Norwalk, CT (203) 846-6800

*Care Investment Trust went public on June 22, 2007, selling 15 million shares at a price of \$15.00 per share. The 2007 percentage change is based on the IPO price, and the initial dividend of \$0.17 per share was paid to shareholders of record on Nov. 15, 2007.

New Viral Tests Yield Rapid Results

Accelerated MRSA Test Also Cleared For Marketing

Three new tests for detecting a range of viruses—including several strains of influenza and methicillin-resistant *Staphylococcus aureus* (MRSA)—may soon be on the market, according to the U.S. Food and Drug Administration (FDA).

The agency gave its stamp of approval to the new products in January, making way for manufacturers to begin marketing and selling the tests.

The ProFlu+ diagnostic test, which detects four respiratory viruses simultaneously in a patient's respiratory secretions, is capable of producing results in about three hours and is more accurate than currently used tests, according to FDA.

Specifically, ProFlu+ screens for the influenza A virus, influenza B virus, and respiratory syncytial virus A and B—viruses known to cause influenza, bronchiolitis, and pneumonia.

While ProFlu+ is faster than conventional tests, it is specific to the four viruses and is more accurate when used with other diagnostics, such as patient data, bacterial or viral cultures, and X-rays, in diagnosing a patient, FDA said.

“Antiviral drugs are most effective when initiated within the first two days of symptoms,” said Daniel Schultz, MD, director of FDA's Center for Devices and Radiological Health, in a statement. “This new test, which is part of the new era of molecular medicine, can help the medical community quickly determine whether a respiratory illness is caused by one of these four viruses and initiate the appropriate treatment.”

Also cleared for marketing was the first rapid blood test for the drug-resistant staph bacterium known as MRSA. The BD GeneOhm StaphSR Assay uses molecular methods to iden-

tify whether a blood sample contains genetic material from the MRSA bacterium or the more common, less dangerous staph bacterium that can still be treated with methicillin.

“The BD GeneOhm test is good news for the public health community,” Schultz said. “Rather than waiting more than two days for test results, health care personnel will be able to identify the source of a staph infection in only two hours, allowing for more effective diagnosis and treatment.”

In order to preserve the integrity of positive test results, this test should be used only in patients suspected of a staph infection, FDA advises. The test should not be used to monitor treatment for staph infections because it cannot quantify a patient's response to treatment.

FDA approved a third test that simultaneously detects and identifies

12 specific respiratory viruses. The xTAG Respiratory Viral Panel is the first test for the detection of influenza A subtypes H1 and H3.

Influenza A is the most severe form of influenza for humans and has been the cause of major epidemics. The new panel is also the first test for human metapneumovirus, which was first identified in 2001.

The xTAG panel is the first FDA-cleared test for infectious respiratory disease viruses that uses a multiplex platform, allowing several tests to be processed using the same sample.

“Nucleic acid tests such as the xTAG Respiratory Viral Panel utilize small amounts of genetic material, and then replicate it many times,” said Schultz. “This speeds up the usual process of detecting and identifying respiratory viruses, which can take up to a week.”

—Meg LaPorte

Community With Vision Assists Ready To Open

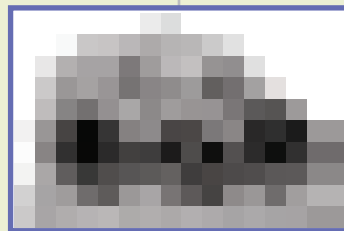
New York City-based Jewish Home Lifecare (JHL)—formerly known as the The Jewish Home & Hospital Lifecare System—and the Jewish Guild for the Blind are slated to open this spring a new residential community for elders with vision impairments or who are blind. The Guild Institute for Vision & Aging will be located at the Bronx, N.Y., campus of JHL.

With accommodations for 38 residents, the guild will include renovated public and private spaces to provide functional supports for people with impaired vision. “Contrasting colors

will be used to differentiate communal and private spaces, and signage will have Braille and color contrast to better communicate,” a statement said.

Future plans for the guild include the addition of two communities at the Bronx location—to comprise a Center for Sight Impaired.

A new research center will examine the consequences of vision impairment for the quality of life of older adults across the continuum of care and will study the implications of vision loss for physical, psychological, and physical well-being for this population.



Governors Mull Long Term Care Reform

Experts Tout Home Care, Private Financing As Mitigating Options

The future of long term care was the focus of a meeting held in late February in Washington, D.C., where two state health officials, a long term care researcher, and Congressional Budget Office (CBO) Director Peter Orszag delivered comparable messages to five of the nation's governors: This country's long term care system is not sustainable in its current form—and the nursing facility entitlement program is largely to blame.

The meeting, which took place during the National Governors Association (NGA) annual meeting, was led by Gov. Jim Douglas (R-Vt.), who said that addressing the fiscal challenges of long term care is "one of the governors' most important jobs."

Researcher Roger Auerbach, senior consultant with the Washington, D.C.-based Lewin Group, urged the governors to take the lead in tackling the issue. "Since governors are the states'

leaders, they have the opportunity to help shape the future and get private resources into the long term care system," he said.

In outlining a series of recommendations that he said could boost the utilization of private resources, Auerbach pointed to housing as a key factor in

United States. "People still think Medicare pays for long term care," he said.

Consumers need to be aware of long term care insurance offered through the federal partnership program, said Auerbach. Reverse mortgages, tax incentives, and annuity trusts are additional alternatives to public financing of long term care, he added.

Patrick Flood, deputy secretary of the Vermont Agency of Human Services, reported that his state's home- and community-based

waiver program led to dramatic Medicaid cost savings.

However, CBO's Orszag cautioned that the prospect of offering a home health benefit to consumers could lead to a "woodwork" effect in which individuals not typically eligible for nursing facility care are motivated to apply for home care.

In a statement released during the NGA meeting, the American Health Care Association (AHCA) and the Alliance for Quality Nursing Home Care pointed out that state and federal policy makers must recognize that without adequate Medicare and Medicaid payments for care services, the well-being of the nation's most frail, vulnerable, and disabled citizens is jeopardized.

Among the solutions already offered by the two organizations is their long term care reform plan, unveiled in January. "The plan advocates the creation of a consumer-oriented system designed to utilize greater private resources...as well as the establishment of a sustainable, patient-centered long term and post-acute care system," they said in a joint statement.



reducing Medicaid expenditures. "Moving due to a disability is emotionally and financially costly," he said. "[States should] develop home modification programs, such as ramps, and other mechanisms, to help beneficiaries stay at home" and therefore ward off spending down to Medicaid.

In addition, Auerbach called for consistent public education about how long term care is paid for in the

Capital Senior Living Drops Hearthstone Deal

Citing a lack of demonstrable value for the company's shareholders, Capital Senior Living Corp., Dallas, recently terminated a previously announced agreement with Hearthstone Senior Services, based in The Woodlands, Texas, to acquire interests in 32 leases.

"Based on the results of subsequent due diligence and lease negotiations, the transaction would not create demonstrable value for the company's shareholders," Capital Senior Living officials said in a statement.

"Our due diligence was thorough,

and our financial analysis extensive," said James Stroud, the company's chairman.

"While we appreciate Hearthstone's cooperation, information gathered during our rigorous process, coupled with lease negotiations, led management to recommend to the board of directors against proceeding under the previously agreed terms.

"We will carefully continue to evaluate compelling opportunities to add additional scale and broaden our existing footprint."

—Meg LaPorte

—Meg LaPorte

QIOs To Intensify Quality Initiatives

New Scope Of Work Targets Pressure Ulcers, Restraint Use

In the upcoming three-year contract cycle for the nation's 53 quality improvement organizations (QIOs), the Centers for Medicare & Medicaid Services (CMS) is calling on them to intensify their efforts to reduce pressure ulcers and restraint use in nursing facilities. The agency expects QIO activities to result in 43,303 fewer nursing facility residents and hospital patients with pressure ulcers and 23,610 fewer restraints, according to documents detailing QIO targets.

The administration has proposed a 23 percent increase in the QIO budget for fiscal 2009, or \$547 million, to "provide Medicare beneficiaries with the highest value in their efforts to improve the quality of care among health care providers," CMS said in a statement.

CMS has taken the unusual step of publishing on its Web site a list of 4,000 nursing facilities deemed to be in need of focused QIO efforts based on their rate of pressure ulcers and restraint use. The American Health

'CMS expects to see 43,303 fewer patients with pressure ulcers.'

Care Association (AHCA) has asked for the list to be removed from the Web site, due to the confusing formula used by CMS to calculate pressure ulcer rates, the uncertain definition of restraints, and the resulting faulty

message conveyed about individual facilities.

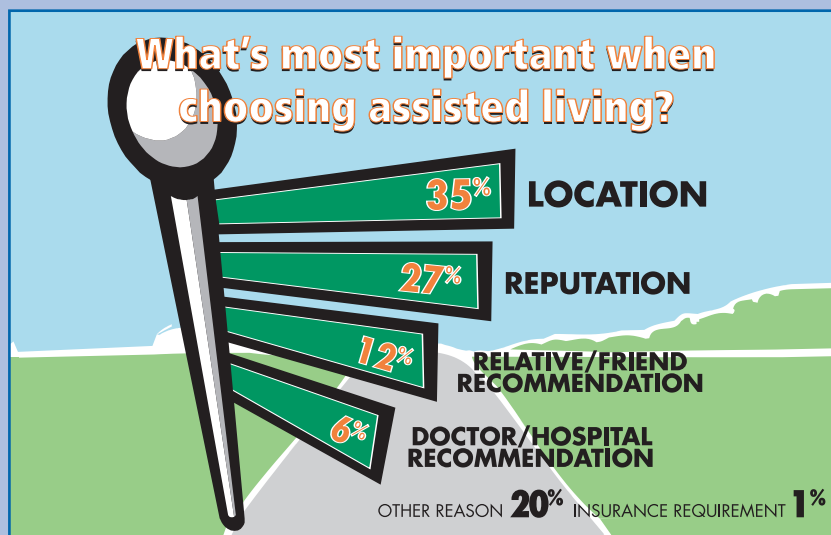
Negative media coverage of the list prompted AHCA to arrange a conference call briefing between its members and CMS Deputy Chief Medical Officer Paul McGann. During the call, which included more than 50 AHCA members, McGann explained that the list's release was a necessary function of the procurement process for the new QIO contract, called the 9th Scope of Work. "The release of this list, in this manner, was pursuant to the requirements of federal contracting law that CMS must adhere to during the procurement process with the QIOs," McGann said. "A lot of nursing homes on the list are the best-performing nursing homes in the country."

Nursing facilities are targeted for QIO improvement—and their names published on the massive list—if in two of the most recent three quarters of data their pressure ulcer rate is deemed to be 14 or more percentage points above the goal of 6 percent, or if their restraint use is 8 percentage points or more above the goal of 3 percent. The national average in these areas is 12 percent and 5 percent, respectively.

CMS' calculations of pressure ulcer rates, however, are not based on a facility's entire population, but only on those residents at high risk for the condition. If a facility has a 10 percent rate, for example, that means 10 percent of residents at high risk actually have a pressure ulcer. This formula skews results for small facilities, or those with few high-risk residents, AHCA contends.

For example, a facility with four high-risk residents would be deemed to have a 25 percent prevalence rate if just one of those residents had a pressure ulcer.

By The Numbers



Results are based on responses to the question, "What is the most important reason you (or your family) chose this community?" (Total is more than 100% due to rounding.)

Source: Assisted living family satisfaction surveys conducted in 2007 by My InnerView Inc.

Another limitation of the data used to generate the list is that it is old and fails to capture a facility's current resident profile.

Furthermore, the definition of a restraint is unclear and can extend to therapeutic devices used to stabilize a limb, says Sandra Fitzler, AHCA's senior director of clinical operations. Due to its extensive limitations, the list "is not helping the public understand what's going on" in nursing facilities, she says.

The prevalence of pressure ulcers and restraint use in nursing facilities has steadily declined in recent years, with providers exceeding federally established targets in both areas, according to performance data submitted to Congress by CMS as part of the agency's annual budget package.

These separate measures, which CMS presents to support the agency's own performance over time, points out that the prevalence of restraints in nursing facilities has declined from 17.2 percent in 1996 to 6.1 percent in fiscal year 2006—exceeding CMS' target for that year of 6.4 percent. The target for 2007 is 6.2 percent, with a 6.1 percent goal for 2008.

CMS says it also exceeded its 8.8 percent target for pressure ulcer prevalence in fiscal 2006, with an actual rate of 8.2 percent—meaning that 8,000 fewer residents had pressure ulcers than the agency had expected.

The new QIO contract begins in August and incorporates four categories of activities, each with specific criteria:

■ *Protecting beneficiaries.* These activities will emphasize mandatory review and quality improvement. QIOs will review an estimated 211,000 cases, including a projected 25 percent increase in beneficiary complaints resulting from stepped-up outreach about appeal rights under the QIO program.

■ *Prevention.* QIOs will focus on disease reduction through measures such

as early testing, immunization, and timely intervention. A focal point will be the reduction of chronic kidney disease and failure.

■ *Patient pathways.* The focus will be on reducing unnecessary hospitalizations.

■ *Patient safety.* Efforts will address "major areas of patient harm [including pressure ulcers and restraint use] for which there is evidence of how to improve and a record of QIO success in improving safety."

—Lynn Wagner

Capital Funding Group

4/c New
e-mailed 2/26

MedPAC Proposal Snubs SNF Funding

Medicare funding to skilled nursing facilities could be slashed by some \$990 million next year if Congress accepts a Medicare Payment Advisory Committee (MedPAC) recommendation to deny an annual inflation update to SNFs in fiscal year 2009, according to the American Health Care Association (AHCA).

The proposal drew fire from AHCA, which admonished MedPAC's failure to recognize the funding interdependence between Medicare and Medicaid. AHCA President and Chief Executive Officer Bruce Yarwood also warned that such cuts could impede the profession's ability to sustain recent quality gains and enhance ongoing quality improvement.

"Skilled nursing facilities face dramatic cost increases in labor, energy,

and technology that are beyond providers' control, and failure to recommend an annual update in the face of rising care costs leaves seniors' current and future care needs in jeopardy," Yarwood said in a statement. "By once again ignoring Medicaid, MedPAC's analysis and recommendations do not present an accurate picture of the long term care marketplace. Even though 66 percent of skilled nursing facility patients receive Medicaid benefits, Medicaid funding accounts for only half of skilled nursing facility revenue—the reason special consideration of the relationship between Medicare and Medicaid seems particularly relevant to skilled nursing care."

According to a study released by AHCA last fall, the Medicaid program reimburses \$4.4 billion less than the actual cost of nursing facility care for

the nation's seniors. This deficit translates into \$13.15 per patient per day less than the cost of care—an amount that has increased 45 percent since 1999, the study found.

Emeritus To Execute \$306 Million Acquisition

Seattle-based Emeritus Corp. has inked a \$305 million deal to acquire 23 communities currently leased by the company. The communities, which are comprised of 1,672 units located throughout the United States, offer assisted living and memory care services, Emeritus reported.

Emeritus will finance the deal through mortgage debt of approximately \$250 million, mezzanine debt of \$30 million provided by the sellers, and the balance from available cash on hand. The deal is expected to close by the end of the second quarter 2008.