

# News Currents

## In Brief

## Senate Passes Medicaid Rules Moratorium

### Provision Included In War Funding Bill

**B**y a veto-proof margin of 75 to 22, the Senate passed an Iraq War Supplemental funding bill that included an amendment that would impose a moratorium until April 1, 2009, on seven Medicaid regulations proposed by the Bush administration. The House passed the same protection in late April, by an overwhelming 349 to 62 vote.

The margin “clearly indicates that members of Congress understand how important this bill is as governors and state legislatures face growing state budget pressures—and a squeeze on Medicaid funding as a result of a slower economy,” said Bruce Yarwood, president and chief executive officer of the American Health Care Association (AHCA), in a statement following the House vote. If implemented, the rules would produce a “loss of federal Medicaid funds and onerous restrictions on how states can both raise and utilize Medicaid funding that could disrupt our nation’s already fragile system of long term care so critical to frail, elderly Americans,” Yarwood said.

The rules would reduce federal Medicaid payments to states by \$15.6 billion over five years, from fiscal years 2008 through 2012, according to administration estimates. A March report from the House Committee on

Oversight and Government Reform, however, projected much deeper reductions in federal payments, totaling \$49.7 billion, based on projections submitted by individual states.



Issued in 2007 by the Centers for Medicare & Medicaid Services (CMS), the rules would narrow the definition of a public provider and limit payments to these providers to the cost of treating Medicaid patients. In addition, they would implement a 5.5 percent provider tax limit and tighten hold-harmless tests for tax programs, reduce case management benefits for those transitioning from institutions to the

community, and bar matching funds for rehabilitative services in non-medical programs.

A moratorium until April 2009 would delay the rules until a new administration is in place.

The CMS rules have drawn an outpouring of opposition from states and a wide range of organizations that have deluged lawmakers with letters of protest. A May letter addressed to House and Senate leadership, for example, was signed by 143 health, education, child, and labor organizations, including AHCA.

“If the regulations are not temporarily delayed, Medicaid beneficiaries may no longer receive necessary health care

### Poll Finds 70% Of Voters Oppose Medicare Cuts

**T**he American Health Care Association (AHCA) has released the results of a new national survey by Zogby International finding that 70 percent of likely U.S. voters oppose a Bush administration initiative that includes \$5 billion in cuts to Medicare-financed nursing facility care over five years. In addition, 67 percent of voters say they are less likely to re-elect their member of Congress if he or she votes for the cuts.

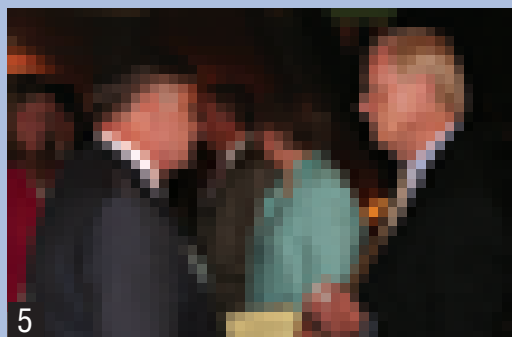
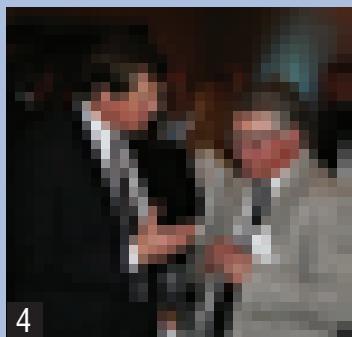
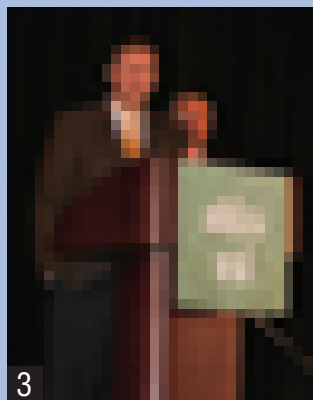
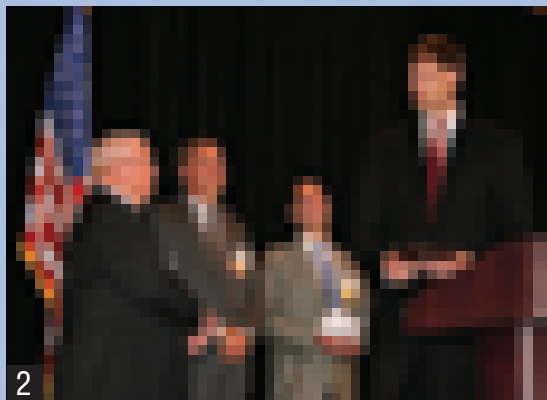
“From the results of this survey, it is abundantly clear voters feel a strong aversion to slashing Medicare funding for essential nursing home care,” says Bruce Yarwood, AHCA president and chief executive officer. “We will continue to inform policy makers on Capitol Hill why Medicare cuts proposed by the administration will not only harm seniors’ ongoing access to quality nursing home care, but also jeopardize the jobs of the key frontline caregivers who make a significant difference in patients’ care outcomes.”

The recent poll results show a growing trend in voter opposition to cuts to Medicare for nursing facilities. A similar poll taken in February showed 63 percent of voters opposed to the cuts, with 61 percent saying they would be less likely to re-elect their representatives if they approved the fiscal year 2009 budget as proposed. A recent economic study by the Lewin Group found that the Medicare cuts as proposed could result in a potential loss of more than 43,000 jobs across the nation.

and long term care services, and providers will face substantial cuts, damaging the already fragile network of Medicaid providers,” the letter said.

—Lynn Wagner

## LTC Providers Descend On Capitol Hill



**T**he American Health Care Association (AHCA) hosts nearly 400 providers (1.) at its annual Congressional Briefing in Washington, D.C., in mid-June. The providers were in town to meet with peers, hear speakers, and lobby their individual legislators on long term care issues. 2. Iowa state Sen. John Kibbie accepts a special AHCA recognition award from AHCA Chair Rick Miller, joined on the dais by Steve Ackerson, executive director (2nd from left), and Doug Johnson, president, of the Iowa Health Care Association. 3. Sen. Kent Conrad (D-N.D.) addresses group (with AHCA President Bruce Yarwood, right). 4. Rep. Earl Pomeroy (D-N.D.), left, exchanges thoughts with Jeff Stingley, director of public affairs, the Evangelical Good Samaritan Society. 5. Chris Matthews, right, host of MSNBC's "Hardball with Chris Matthews," is greeted by a well-wisher following his talk.

## Senate Passes \$3.1 Trillion Budget Resolution

**A**t press time, the U.S. Senate had given final approval to the fiscal year 2009 budget conference report, which included funding increases for domestic programs and excluded funding reductions for Medicare and Medicaid as previously proposed by President Bush.

According to Kent Conrad (D-N.D.), Senate Budget Committee chair, the five-year fiscal plan balances the budget; makes needed investments in energy, education, and infrastructure; cuts taxes on the middle class; and assumes no tax increase.

The budget resolution was adopted by the Senate on a bipartisan vote of 48-45. "With an affirmative House vote expected Thursday, this will mark the first time Congress has adopted a budget during an election year since 2000," Conrad said in a statement.

"We have passed a fiscally responsible budget. This plan provides tax relief for the middle class. It makes critical investments in energy, education, and infrastructure. And it returns the budget to surplus in 2012 and 2013."

Conrad said the budget adheres to key budget enforcement tools implemented last year, such as the pay-as-you-go rule. "And it includes additional procedural protections to help ensure fiscal responsibility," he said.

According to sources, the budget includes more than \$1 trillion in discretionary spending, which is about \$21 billion above the discretionary spending requested by President Bush. The House was expected to approve the budget proposal in June. But the Democrats may delay submission of such appropriation bills until after the next president has taken office, according to reports.

—Meg LaPorte

# House Hearing Probes Transparency

## Committee Members Recognize Industry's Quality Improvements

**N**ursing facilities have made significant and measurable improvements in the quality of care they provide, and the profession has taken the lead on initiatives to sustain and continue those improvements, said Neil Pruitt Jr., chairman and chief executive officer of the UHS-Pruitt Corp., Toccoa, Ga., in testimony before the House Energy and Commerce subcommittee on oversight and investigations at a recent hearing that focused on nursing facility transparency and safeguards.

At the outset of the hearing, Energy and Commerce Committee Chair John Dingell (D-Mich.) applauded the nursing facility "industry leaders who have advocated for higher standards." He singled out "my friend, Bruce Yarwood, president of the American Health Care Association [AHCA], as one of those leaders who has set the bar high."

Rep. Marsha Blackburn (R-Tenn.), in her opening statement, noted that her district included Brentwood-based *Advocat*, ranked No. 18 this year on *Provider's* list of the Top 50 Nursing Facility Chains. "They have shown a commitment to transparency," she said, "because it's important that quality data be useful to consumers and providers."

Rep. Michael Burgess (R-Texas) expressed concern about how nursing facility regulations have adversely affected independent owners. "One problem we face today," he said, "is that we've sued, regulated, and underfunded the smaller owners of nursing homes in the last 10 years. I do hope [this hearing] will focus on a few solutions rather than on who to blame."

Also testifying at the hearing was Mary Jane Koren, assistant vice president of The Commonwealth Fund and

chair of Advancing Excellence in America's Nursing Homes. She noted that while there "is no silver bullet that, by itself, will make all nursing homes good places to live and work," there are some steps Congress can take to improve transparency and the regulatory process.

The Centers for Medicare & Medicaid Services (CMS) Web site Nursing Home Compare, for example, could include information on staffing characteristics such as turnover rates, said Koren, who added that CMS should be directed to "vigorously pursue its work on using resident input to improve the assessment, care planning, and survey processes."

Pruitt, in his testimony, also detailed the industry's strides in quality improvement and described a number of initiatives that have been voluntarily launched by providers.

He said the long term care profession has long supported and worked to advance the objective of "true transparency and publicly available information as to our performance." He cautioned, however, that focusing on the disclosure of details such as "minimal ownership" will neither "drive nor contribute to the improvement of care or services in facilities nationwide."

Pruitt also called for a series of oversight reforms, including the creation of a pilot program to use civil monetary penalties collected from skilled nursing facilities for quality improvement programs; a requirement for the Medicare Payment Advisory Commission to consider the operating margins of all government payers, including Medicaid, when it crafts recommendations; and passage of the Long Term Care Quality and Modernization Act.

—Meg LaPorte and Lynn Wagner

## Surveyors Miss Low-Level Deficiencies: GAO

**T**he Government Accountability Office (GAO) has recommended strengthening the Centers for Medicare & Medicaid Services' (CMS) management of the federal monitoring survey database as part of a report that found that state surveys often miss low-level deficiencies. More serious citations are also overlooked, though with far less frequency, GAO found.

The report is based on a GAO review of all 976 federal comparative surveys and 4,023 observational surveys that were conducted nationwide during fiscal years 2002 through 2007. These are surveys performed at the federal level to determine the accuracy of state surveys. Federal monitoring is

done by resurveying a facility or observing state surveyors as they do their work.

GAO found that 70 percent of federal comparative surveys identified state surveys that had missed at least one deficiency at the level of "potential for more than minimal harm." This is a concern, GAO said, as these undetected problems "could become more serious over time if nursing homes are not required to take corrective actions."

A much smaller portion, about 15 percent, of the federal comparative surveys found missed deficiencies at the levels of actual harm and immediate jeopardy.

—Lynn Wagner

# Medicare Cut Would Hurt Economy

## Measure Would Trigger Loss Of 43,530 Jobs, Analysis Finds

**A** \$770 million cut to skilled nursing facility (SNF) Medicare payments, included in the Centers for Medicare & Medicaid Services' (CMS) proposed fiscal year 2009 payment rule, would have a dramatic impact on the economy, according to an analysis prepared for the American Health Care Association (AHCA) by the Falls Church, Va.-based Lewin Group.

The decline in Medicare payments to SNFs—totaling nearly \$5 billion over five years—would reverberate to the wider marketplace, triggering a \$4.5 billion drop in total business activity, a \$1.8 billion shrinkage in wages, the loss of 43,530 jobs, and \$661 million in lost tax revenue during the first year alone, Lewin reported.

These impacts would stem from a chain reaction set off by lost purchasing power among SNFs and their employees, which in turn would create a drag on businesses that sell goods and services to these customers. In the model used to generate the projections, the pattern of weakened sales,

wages, and employment would fan out through the marketplace, affecting multiple layers of businesses and employees. In nursing facilities, the first-year \$770 million revenue loss would force a projected \$480 million wage reduction and the cutback of 15,607 jobs, Lewin predicted.

“What the numbers mean to me as I look at long term care facilities across the country is that the administration put us in a lose-lose situation,” said Bruce Yarwood, president and chief executive officer of AHCA, in a recent conference call with reporters. Calling CMS' proposal “flawed, illogical, and counterproductive,” Yarwood said that at a time when SNFs have been “struggling to maintain economic stability to improve quality,” the 3.3 percent payment cut “pulled the rug out from under us.”

CMS describes the \$770 million cut as a necessary correction for a forecasting error linked to the 2006 refinement of the resource utilization group (RUG) system. The error led to higher-than-expected SNF payments,

which the agency now seeks to recapture by recalibrating nursing case-mix weights. These are numbers which, when combined with the base rate, determine a facility's payment rate for each RUG category. The rule would also make adjustments to rates for non-therapy ancillary services.

The purpose of the RUG refinement, in which nine new case-mix groups were created, was to more accurately account for the care needs of beneficiaries who require extensive medical and rehabilitation services.

The changes were supposed to have been budget-neutral, with patients classified in the new, higher-intensity RUG categories 19 percent of the time, according to an AHCA summary of the proposed rule.

Instead, patients were classified into the new groups 30 percent of the time, resulting in higher-than-expected Medicare expenditures.

AHCA contends that the RUG refinement has had the intended effect of enabling SNFs to care for the rising number of high-acuity patients who need medical care and rehabilitation following a hospital stay or surgery, for a much lower cost than an acute-care setting.

In 2006, about 92,000 SNF patients fell into the newly created RUGs categories, saving the Medicare program \$709 million that would have otherwise been spent in higher-acuity settings, said Alan Rosenbloom, president of the Alliance for Quality Nursing Home Care, citing data from an Avalere Health study. The proposed rule “is inconsistent with a multi-year effort by the administration and Congress to come up with a rational way of providing post-acute care,” Rosenbloom said in the call.

—Lynn Wagner

## Emeritus Refinances 18 Communities

**S** eattle-based Emeritus Corp., ranked No. 2 this year on *Provider's* list of the Top 40 Assisted Living Chains, recently refinanced \$112 million of mortgage debt on 18 of its existing communities. The new loan, for \$129 million, resulted in approximately \$14.4 million in cash proceeds, which will be used for general corporate purposes, according to company officials.

The new mortgage is being provided by Capmark Finance and purchased by Freddie Mac. In connection with this

transaction, Emeritus will incur a one-time charge of approximately \$3 million related to prepayment penalties and the write-off of unamortized deferred loan fees on the original debt.

“It is a very positive statement for the company that we can reasonably refinance our facilities in this market,” said Dan Baty, chairman and co-chief executive officer.

“It is also supportive of our continued effort to acquire fee interest in our previously leased properties.”

—Meg LaPorte

# Ten States Would Suffer Most Over Cuts

## Rural Areas Also Would Be Hit Hard By RUG Recalibrations: Study

The greatest burden of the Centers for Medicare & Medicaid Services' (CMS) proposed \$770 million Medicare cuts to nursing facility resource utilization group (RUG) payments would fall on 10 states, according to analysis conducted by the American Health Care Association (AHCA).

Based on budget data from the Office of Management and Budget and CMS, AHCA projects that nationally providers would incur an \$11.12 per patient day reduction in Medicare-financed care in fiscal year 2009.

Facilities in California, Florida, New York, Texas, Ohio, Illinois, Pennsylvania, New Jersey, Michigan, and Massachusetts would take the greatest blows. Cutbacks in those states would range from a high of \$64.9 million, or \$13.69 per patient day in

California, to \$27.1 million, or \$12.01 per patient day in Massachusetts.

The funding cut would also deliver a heavy blow to rural providers and the fragile economies in which they operate, a separate AHCA analysis found.

In states like Florida, which has been in the grip of an economic downturn, the Medicare loss would compound sharp Medicaid reductions. Florida legislators cut \$75.2 million from nursing facility payments in a special session last October, and again by \$163.7 million during the recent spring session, for a two-year total of \$238.9 million, said Tony Marshall, senior vice president of the Florida Health Care Association, speaking on a recent call with reporters. The effect has been to wipe out additional funding that the state had provided to meet Florida's statutory staffing requirements, which

are among the highest in the nation, Marshall said.

AHCA calculates that Florida nursing facilities would incur an additional loss of \$62.3 million in Medicare funding for fiscal year 2009, or \$11.66 per patient day, as a result of CMS' proposed payment rule.

"No one is complaining that we are doing a job we shouldn't be doing," Yarwood told reporters in the conference call, noting that CMS has never suggested that nursing facilities have made inappropriate use of the nine RUGs categories created in 2006. As a result, "we are having a real hard time understanding the justification" for the agency's decision to take back RUG funding, he added.

Rural states and providers will be particularly hard hit, according to an AHCA analysis of the fiscal impact of the cut in these areas. Nationally, Medicare funding for rural SNF care would be cut by \$133.2 million, or \$10.96 per patient day.

In many states, the cut in rural areas would comprise a large portion of the statewide loss, the AHCA analysis found. In Kentucky, for example, rural SNFs would lose \$5.6 million, or 43 percent of the state's \$13 million projected reduction. In North Carolina, which would lose \$21.8 million, rural cuts would account for 34 percent of the total, or \$7.4 million.

The cuts will squeeze rural providers' "already fragile cost structures, staffing, and ultimately patient care," Yarwood said.

Allen Dobson of the Lewin Group said rural areas are "particularly vulnerable" to the economic impact of the cuts because "the jobs that are lost are not easily made up," leading to a deeper, long-term impact.

—Lynn Wagner

### By The Numbers

#### What matters most

##### NURSING HOME RESIDENTS

- 1 Care (concern) of staff
- 2 Competency of staff
- 3 Choices/preferences
- 4 Quality of RN/LVN/LPN care
- 5 Quality of CNA/NA care
- 6 Respectfulness of staff
- 7 Safety of facility
- 8 Responsiveness of management
- 9 Adequate staff to meet needs
- 10 Commitment to family updates

##### NURSING HOME FAMILIES

- 1 Care (concern) of staff
- 2 Competency of staff
- 3 Quality of RN/LVN/LPN care
- 4 Quality of CNA/NA care
- 5 Respectfulness of staff
- 6 Choices/preferences
- 7 Adequate staff to meet needs
- 8 Safety of facility
- 9 Responsiveness of management
- 10 Attention to resident grooming

Top 10 rankings are based on correlational analyses between responses to a "Recommendation to others" survey item and 22 individual survey items.

Source: 2007 National Survey of Consumer and Workforce Satisfaction in Nursing Homes by My InnerView Inc.

# Culture Change Adoption Hopeful

## Survey Finds Staff Resistance, Cost As Primary Barriers

**A**lthough culture change has been gaining momentum within the skilled nursing industry for the past decade or so, the extent to which facilities have adopted resident-centered practices, such as allowing residents to determine their own schedules or altering their physical environments into small functional areas, is mixed, according to a recent report from Washington, D.C.-based The Commonwealth Fund.

Based on a survey of directors of nursing at more than 1,400 nursing facilities, the report nonetheless concludes that the results “indicate a hopeful picture about the potential for deep, systemic change within the industry.”

Culture change is “recognized by and familiar to almost all providers,” the report says. “If the first step to change is awareness of a problem and the availability of an alternative, then the field of nursing home care is indeed poised for transformation.”

The report places the respondents into three categories: “culture change adopters,” “culture change strivers,” and “traditional nursing homes.”

Traditional nursing facilities comprised 43 percent of the respondents, for which the term culture change describes their facility “not at all” or only “in a few respects” and the leadership is only “somewhat,” “not very,” or “not at all” committed to the adoption of culture change.

Culture change adopters, the group that reports that the definition of culture change or resident-directed care “completely” or “for the most part” describes their facility, made up 31 percent of the respondents.

Another 25 percent of the survey respondents were identified as culture change strivers—facilities for which

the definition of culture change describes their nursing facility either “in a few respects” or “not at all” but leadership is “extremely” or “very” committed to adopting culture change.

Overall, the survey found that about 30 to 40 percent of all nursing facilities are currently implementing some principle of culture change that fosters resident-directed care, as follows:

- Fifty-eight percent of culture change adopters allow residents to determine their own schedules, compared with only 22 percent of traditional nursing facilities;
- Nearly two-thirds (64 percent) of culture change adopters have bathing practices that are more resident-centered, while only 37 percent of traditional nursing facilities do so; and
- Seven of 10 culture change adopters report that residents are

involved in decisions about their facility, but only 27 percent of traditional nursing facilities involve residents in such decisions.

Nursing facilities have been most successful at increasing residents’ involvement in decision making in their own care plan, according to the report. “And there is some evidence that management is accommodating collaborative and decentralized decision making to empower direct care workers.”

Indeed, 59 percent of culture change adopters include direct care workers and residents on the senior management team, compared with only 24 percent of traditional nursing facilities.

Culture change adopters are also more likely than traditional facilities to consistently assign the same assistants to residents (86 percent versus 74 ▶

## Senator Visits Kansas Nursing Facility



**S**en. Sam Brownback (R-Kan.), a member of the Senate Appropriations and Judiciary committees, meets with a resident at the Golden Heights Living Center, in Garnett, Kan. Staff, family members, and residents explained their concerns about Medicare and Medicaid cuts and talked about quality improvement.

percent). Despite the progress among culture change adopters, very few facilities are altering their physical environments, the survey found. Only 16 percent said they are currently breaking down large units into smaller operational units, while only 7 percent have eliminated large nursing stations.

According to the report, the more culture change principles are embraced, the greater the increase in staff retention and occupancy rates and the greater decrease in operational costs. Among the respondents, 60 percent of nursing facilities that are currently implementing at least seven or more culture change initiatives report improved occupancy rates, while only 44 percent with three or fewer culture change initiatives under way report this improvement.

Half of nursing facilities that are most engaged in culture change report that staff absenteeism decreased, while one-third of nursing facilities with three or fewer culture change initiatives under way report this improvement in staff absenteeism.

The two leading obstacles to culture change implementation are staff resistance and cost, according to the survey.

Sixty-one percent and 59 percent of respondents, respectively, cited these items as major or minor barriers. More than half (56 percent) cited regulations, while 49 percent cited the size of the facility as obstacles to culture change adoption.

In conclusion, the report suggests

that despite the mixed progress “with the examples and best practices gleaned from the culture change movement, nursing homes can begin to make the necessary changes to improve the quality of life for their residents and staff.”

—Meg LaPorte

## New Joint Venture Breaks Ground

**A** new joint venture between Alpharetta, Ga.-based Formation Development Group, its affiliate, Formation Capital, and an unnamed U.S.-based institutional investment firm has committed an initial \$56 million of equity to an initiative that will focus on the development and ownership of senior living projects.

The joint venture will include primarily independent living developments in “fundamentally strong, major markets” in Texas; the Southeast, Mid-Atlantic, and Northeast regions; and other large metropolitan markets on a selective basis.

The recent groundbreaking of The Sienna at Cinco Ranch, a 158-unit

independent and assisted living community in metropolitan Houston, Texas, marks the first of the joint venture’s project.

“This venture allows us to capitalize on opportunities in today’s market,” said Mark Spiegel, president of Formation Development Group. “We look forward to identifying additional sites in the affluent areas of major markets where we can develop what we call The New Signature of Senior Living—amenity-rich senior living communities with multiple dining venues, concierge services, attractive interiors, and numerous floor plans in vibrant locations.”

—Meg LaPorte

## Stock Check

PROVIDERS	Symbol	Where Traded	Current Price 5/30/08	Adjusted P/E Ratio	Change From 1/1/08	52-Week Range High	52-Week Range Low	PROVIDERS	Symbol	Where Traded	Current Price 5/30/08	Adjusted P/E Ratio	Change From 1/1/08	52-Week Range High	52-Week Range Low
<b>Skilled Nursing</b>								<b>REITs</b>							
Advocat	AVCA	NASDAQ	\$12.04	7.1	9%	\$12.75	\$9.25	Care Investment Trust	CRE	NYSE	\$11.50	5.9%	7%	\$14.80	\$9.40
Ensign Group	ENSG	NASDAQ	\$10.41	5.5	-28%	\$16.65	\$7.50	Health Care Property Investors	HCP	NYSE	\$34.26	5.2%	-1%	\$38.75	\$25.11
Kindred Healthcare	KND	NYSE	\$27.59	8.4	10%	\$28.74	\$17.35	Health Care REIT	HCN	NYSE	\$48.30	5.6%	8%	\$50.49	\$35.08
National HealthCare	NHC	AMEX	\$52.25	8.4	1%	\$55.75	\$45.75	Healthcare Realty	HR	NYSE	\$26.55	5.8%	5%	\$33.12	\$18.00
Skilled Healthcare Group	SKH	NASDAQ	\$13.46	8.7	-8%	\$16.81	\$9.83	LTC Properties	LTC	NYSE	\$27.80	5.6%	11%	\$28.10	\$19.02
Sun Healthcare Group	SUNH	NASDAQ	\$14.36	8.9	-16%	\$18.78	\$11.72	National Health Investors	NHI	NYSE	\$31.00	7.1%	11%	\$35.54	\$27.00
<b>Assisted/Independent Living</b>								Nationwide Health Properties							
Assisted Living Concepts	ALC	NYSE	\$6.70	10.2	-11%	\$11.87	\$5.46	NHP	NYSE	\$34.13	5.2%	9%	\$37.67	\$22.63	
Brookdale Senior Living	BKD	NYSE	\$26.38	13.9	-7%	\$48.41	\$20.46	Omega Healthcare	OHI	NYSE	\$17.82	6.7%	11%	\$19.20	\$12.00
Capital Senior Living	CSU	NYSE	\$8.04	11.1	-19%	\$11.19	\$6.32	Senior Housing Properties Trust	SNH	NYSE	\$22.21	6.3%	-2%	\$25.21	\$16.22
Emeritus Assisted Living	ESC	AMEX	\$21.23	14.5	-16%	\$39.40	\$19.99	Universal Health Realty	UHT	NYSE	\$34.11	6.8%	-4%	\$39.05	\$28.23
Five Star Quality Care	FVE	AMEX	\$6.70	9.3	-19%	\$10.20	\$5.70	Ventas	VTR	NYSE	\$47.15	4.3%	4%	\$50.39	\$26.50
Sunrise Senior Living	SRZ	NYSE	\$26.48	N/A	-14%	\$42.97	\$16.27								

Quotes courtesy of [www.seniorcareinvestor.com](http://www.seniorcareinvestor.com), Norwalk, CT (203) 846-6800

(1) Adjusted P/E=(market cap + total debt + capitalized leases = cash)/annualized EBITDAR based on the most recent quarter.

(2) Care Investment Trust went public on June 22, 2007.

# Assisted Living Fee Increases 'Normal'

## Providers Must Stay Competitive In Economic Downturn: Study

While Genworth Financial's "2008 Cost of Care" reported an 11 percent increase in the national average assisted living monthly fee, experts say provider increases are in line with rising costs.

The national average monthly rate for a private one-bedroom unit in an assisted living residence is \$3,008 (\$36,090 per year), an 11 percent increase compared with Genworth's 2007 report figures of \$2,714 monthly, or \$32,572 per year. Genworth's report contains rate information from 10,000 nursing facility, assisted living, and home care providers located in 50 states and 90 geographic regions, including the District of Columbia.

This is Genworth's fifth annual report. During the five-year period between 2004 and 2008, fees showed an annual compound growth rate of 6 percent, according to the report.

"The increase is above the inflation rate, but the inflation rate doesn't cover all the costs involved in operating an assisted living facility," says Stephen Monroe, editor of *Senior Care Investor*, a newsletter covering financing for long term care companies.

### Reasons For Rising Costs

The primary cause of rising long term care fees is the labor shortage, according to Genworth, which released a companion report to the "Cost of Care." While labor is a factor, experts disagree on whether it is the primary driver of increasing fees.

"The cost of running properties—staffing, wages, linens, utilities—it all goes up, and that has a large say in what is driving the increase," says Michael Hargrave, vice president of the National Investment Center for Seniors Housing and Care Industry's market area profile department.

"Providers raise rates in order to keep up with costs and keep the quality and level of services that are needed."

On average, providers raise fees between 4 percent and 7 percent on an annual basis, he says.

Fear of unions organizing their

long term care rates within states and large metropolitan areas, based on Genworth's report.

### Use Data To Benchmark

Genworth, like its long term care insurance competitors MetLife and Prudential Financial, issues reports on long term care costs for consumers. However, assisted living providers can also make use of the report.

"Providers can use the Genworth or other company surveys to benchmark their fees in the marketplace," says Hargrave. "Are they an average-rate provider or a maximum-rate provider in the marketplace? If they are a maximum-rate provider, is the provider delivering quality services to accompany that maximum rate?"

Maximum rates are a concern for Tacoma, Wash.-based marketing and sales consultant Stephen Wright of Wright Mature Marketing. While it's important for providers to see where they are positioned in a marketplace, Wright is concerned that some annual rates are reaching a "psychological ceiling" among consumers in the current economic environment.

Wright is advising his clients to return their sales and marketing teams to a "sales culture," meaning that marketing representatives should be listening and looking to provide solutions to consumers who are reluctant to move in because they have lost value in their homes or won't be able to sell their homes in the near future.

### Return To Marketing Roots

First-quarter results of publicly traded assisted living companies included reports that slow housing sales and decreasing home values are causing retirees to postpone moving into assisted living. Wright is advising his assist-

### TOP 10 AREAS WITH MOST EXPENSIVE ASSISTED LIVING FEES

Areas	Average Monthly Rate
1. New Jersey	\$4,921*
2. Alaska	\$4,567
3. Chicago	\$4,507
4. Boston	\$4,504
5. New York-New Jersey	\$4,442**
6. Bridgeport, Conn.	\$4,346
7. Maine	\$4,103
8. Washington, D.C.	\$4,027
9. New York-Newark-Edison	\$3,938***
10. Massachusetts	\$3,870****

\*Rest of New Jersey counties outside of New York-New Jersey

\*\*New York-New Jersey counties: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Somerset, Sussex, Passaic, and Ocean

\*\*\*Not New York City; includes New York counties Bronx, Kings, Nassau, Putnam, Queens, Rockland, Richmond, Westchester, and Suffolk

\*\*\*\*Massachusetts excluding Boston, Essex, Middlesex, Norfolk, Plymouth, and Suffolk

workers caused some larger assisted living companies to increase hourly wages and improve benefits for their labor forces, says Monroe, adding that the cost of food and energy also add to the rising cost of operating a residence.

Newspapers across the country have published stories regarding increases in

## In Brief

ed living clients to return to selling the benefits of assisted living and to innovate residence activities programs.

“Providers have been order takers, until now,” he says. “With decreasing home values, increased competition from home care, and adult children picking up the tab for care, assisted living sales and marketing has to return selling to the value of assisted living.”

His three key recommendations to providers are first to make sure that customer service is everywhere. “You can never do enough regarding customer service,” he says, adding that customer service is based on residents’ interactions with every staff member in the residence.

Second “is getting back to a ‘sales culture.’” For Wright that means sales team members need to learn to listen and be problem solvers.

Sales people need to sell the value of community living, as well as the social and physical activities available in the residence.

The third recommendation is to ensure that a residence’s social and physical activities are what incoming residents expect and want, he says.

“Make sure your activities and social events make you stand out in the market,” he says. “Make sure you are in tune with what people want.”

For example, providers could offer Nintendo’s Wii system for recreation or invite a local college professor or local expert to provide a talk about intellectual or political issues or cultural events. These are some cutting-edge methods of attracting new assisted living residents, he says.

“Managers everywhere should be thinking how we could continue to innovate,” Wright says.

—Lisa Gelhaus

### Business Groups Join To Oppose Arbitration Legislation

Legislation that seeks to bar pre-dispute arbitration clauses from a wide range of contracts threatens to “undermine a system that has benefited consumers, employees, and businesses for decades,” said a letter sent to every member of Congress, from more than a dozen groups, including the American Health Care Association (AHCA) and the National Center for Assisted Living (NCAL), that are battling the proliferation of such bills on Capitol Hill.

Opponents of arbitration are trying to abolish pre-dispute clauses “by using anecdotes and a handful of poorly designed or inaccurate studies to validate their unfounded claim that the system is broken,” the letter said.

Calling arbitration “an efficient, effective, and less expensive means of resolving disputes,” the letter cited data from the California Dispute Resolution Institute at the University of San Francisco, which found that consumers prevail more than 70 percent of the time in arbitration. Disputes were also resolved more quickly, in an average of 100 days as opposed to the average two years that it takes for litigation to be resolved through the courts, the letter said.

Furthermore, a recent “bipartisan poll” conducted for the U.S. Chamber of Commerce’s Institute for Legal Reform found that 82 percent of Americans prefer arbitration to litigation, and 71 percent of likely voters “oppose efforts by Congress to remove arbitration agreements from consumer contracts,” the letter said.

Signed by 19 organizations, the letter brought together groups from a wide range of business sectors, including the the American Insurance Association and the U.S. Chamber of Commerce.

The letter cited 10 separate bills that target pre-dispute arbitration agree-

ments, including the Fairness in Nursing Home Arbitration Act, which was introduced in the Senate in April, followed by a House of Representatives version in May, sponsored by Linda Sanchez (D-Calif.).

AHCA/NCAL has opposed both of these measures, which would prohibit the use of arbitration agreements at the time of admission to a nursing facility.

“We believe that fair and timely resolution to any legal concerns is in the best interest of the patients, residents, taxpayers, and the nation’s entire health care sector,” said Bruce Yarwood, AHCA/NCAL president and chief executive officer.

—Lynn Wagner

### Ventas Relocates Headquarters, Expands Credit Facility

Ventas has re-located its headquarters from Louisville, Ky., to Chicago, effective May 18. The company’s Louisville office, which has been its corporate headquarters, will continue to be the company’s largest location and is slated to expand its capacity by about 50 percent to provide for its growing workforce, according to a company statement.

“We believe that identifying Chicago as our headquarters will provide the company with increased visibility and access to the city’s robust real estate community, including other REITs, private real estate companies, and real estate investors important to our success,” Ventas Chairman, President, and Chief Executive Officer Debra Cafaro said.

Earlier this year, Ventas increased its borrowing capacity under its unsecured revolving credit facilities to \$850 million, of which \$150 million is available either in U.S. or Canadian dollars. The credit facilities mature in April 2009, and the company has the option to extend its maturity to April 2010.

—Meg LaPorte