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McKnight's LONG-TERM CARE NEWS

Providers Get Relief from Medicare Cuts, but No Liability Protections in Year-end Legislative Packages

This month's new stimulus bill for COVID relief will provide some funding to help struggling providers stay afloat, but many will still feel a lot of pain until more protections are put in place. Without any additional considerations for liability protections, many feel short changed by this new effort.

Written by: Danielle Brown

12/22/2020

Providers are set to receive extended relief from the 2% Medicare sequester cuts under a year-end legislative relief deal that was finalized by federal lawmakers on Monday. However, they will have to wait for liability protections from coronavirus-related lawsuits after such shields were not included in the pending COVID-19 relief package.

Congress over the weekend reached an agreement on a $900 billion COVID-19 relief package and approved the measure Monday night after the legislative text for the deal was released earlier in the afternoon. The relief deal is also tied to a $1.4 trillion government spending deal agreed to by lawmakers last week.

A lack of "reasonable, limited liability protection for healthcare and businesses" in these latest pandemic relief efforts was described as disappointing by the American Health Care Association/National Center of Assisted Living on Monday.

"This protection should be extended to all senior care facilities. These are unprecedented times when providers are risking their own lives to care for and protect their residents, employees, families and the general public from this virus," an AHCA/NCAL spokeswoman told *McKnight's Long-Term Care News*.

"It is absolutely vital to have protection from unwarranted and excessive legal action that is coming. Such a litigation environment will simply force our long term care providers out of business, in turn placing further pressure on state Medicaid budgets — and limiting access to critical services for our nation's seniors," the association added.

Long-term care providers have previously stressed the need for lawsuit protections to be included in any relief packages. Even though the issue was not addressed in this deal, Senate Majority Leader Mitch McConnell (R-KY) on Monday pledged to push for the protections in any pandemic relief legislation in 2021. He had long vowed earlier this year, however, that any new relief package would not be passed without liability protections.

"I think liability relief is really important," McConnell said in an interview Monday. "And if there is another coronavirus relief bill after the first of the year, I'm going to insist that liability protection for these universities and healthcare providers is a part of it."

Relief from Medicare cuts

The year-end deal extends the moratorium on the 2% sequestration reduction to Medicare payments by another three months. The moratorium was set to expire at the end of 2020. AHCA and other top provider groups have pushed for Congress to postpone the application of the 2% cut at least for the duration of the pandemic.

Additionally, the deal also sends $3 billion in funding into the Physician Fee Schedule for 2021 that will result in payment increases for healthcare providers across the board. The move gives providers critical relief from the slated Medicare payment cuts that are set to go into effect Jan. 1, 2021. It also means therapy providers would see some relief from the scheduled 9% payment cut.

"This will help all provider payments and also help to mitigate the overall cut from the conversion factor," explained Cynthia Morton, executive vice president of the National Association of Support for Long Term Care.

It also delays the CPT code G2211, included in the fee schedule, for three years. The measure would have allowed office-based practitioners to use this add-on code to reflect additional complexity in seeing a patient, Morton noted.

"This will require that the conversion factor be re-calculated and we expect that the resulting cut will not be as significant," she told *McKnight's* on Monday.

Morton added that "all very positive policies that will help providers mitigate the [Physician] Fee Schedule cuts."

Weak Provider Relief Fund addition?

The deal also calls for an additional $3 billion to the Provider Relief Fund. AHCA/NCAL President and CEO Mark Parkinson said the group is "disappointed that Congress could not strike a deal that recognizes the dire situation our long-term care residents and staff are facing right now."

"Due to soaring community spread, nursing homes are experiencing a record-breaking number of cases and deaths — worse than the spring. Even with a vaccine on its way, it will likely take months to fully vaccinate our residents and staff, as well as the remaining public. Facilities will not be able to return to normal for some time, meaning providers need ongoing support with PPE, testing and staffing," Parkinson said.

"Nearly two-thirds of long term care facilities are operating at a loss, and the additional funds slated for the Provider Relief Fund for all healthcare providers in this legislation are minimal. Hundreds of facilities are in danger of closing their doors permanently and uprooting the frail seniors they care for. Congress must do more in the new year by directing specific aid to long term care," he added.

LeadingAge President and CEO Katie Smith Sloan called the relief package a "helpful downpayment" but on Monday also urged continued pressure on lawmakers to improve upon the "patchwork approach" that has not given enough to the setting that has suffered the most COVID-19-related deaths.

McKnight's LONG-TERM CARE NEWS

Consider this when Planning a 2021 Budget

Taking a look at the past year, we know that anything is possible when it comes to new challenges becoming a reality – especially where finances are concerned. Featured in this article you will find advice on financial planning pertinent to Skilled Nursing for your 2021 fiscal year.

Written by: Liz Lane, CPA

12/22/2020

For providers across the long-term post-acute care continuum, 2021 budget planning should be top of mind these days.

Developing accurate budgets is critical for making informed purchasing decisions. Likewise, it's essential in analyzing financial performance.

This was a year of unprecedented challenges for most LTPAC organizations, and 2021 could follow a similar trajectory in many ways. Therefore, rather than simply assuming similar performance from year to year, we recommend focusing on key financial items below and reflecting any changes as necessary.

- **Census:** It's no secret that census drives revenue for LTPAC organizations, as well as an array of operating expenses. Accordingly, it's best to carefully consider the payer mix of this occupancy. Payer mix is the source of your room and board revenue. If your facility is involved in marketing efforts to enhance census, for example, with a hospital, reflect that expected change when completing the census projection. The payer mix causes large variations when it comes to total revenue dollars and cash flow planning.

It will be challenging to project census for 2021. Most providers have experienced an extreme decrease in occupancy in recent months, so basing projections off the previous year isn't ideal.

Additionally, it's wise to stay conservative with census projections in the beginning of the year. Remember: A provider is allowed to utilize Provider Relief Funds through June 2021, assuming the impact will still be felt during that part of the year. Also, if those funds won't be fully expended by the end of the year, consider budgeting for these remaining amounts since they will help offset the negative impact of the pandemic. That said, tread carefully, as this should only contain the portion of the funds that are offsetting healthcare-related expenses or lost revenues due to the pandemic.

Capital expenditures: Is your organization or facility planning renovation projects? Are you aware of capital items that must be replaced in facilities? With answers in hand, review your depreciation expense to make sure any planned capital expenditures are being accounted for in the totals. Renovations around the country were likely delayed in 2020 as the pandemic evolved. Be sure to account for additional expenses around projects your organization has put on the back burner.

Wage accounts: Ask any LTPAC accounting or financial professional, and they'll agree that wage accounts are

tedious components of the budget process. A facility's projected census directly correlates to its budgeted full-time employees, so not properly budgeting this can yield large variances in your monthly numbers. Ask yourself: Have you accounted for any new positions? Overtime pay? Raises? Check to ensure months with holidays are properly accounted for. Are there certain times during the year when people will be working longer hours? All of these variables must be considered when planning out wage expenses for the year. Consider some additional issues around wage accounts:

If your organization or facility uses total hours worked from your current year positions to determine the number of full-time employees for next year's budget, consider additional time that was put in as a result of the pandemic for that calculation.

Pay attention to hazard pay or additional bonuses that will need to be budgeted in the beginning of 2021.

If you are expecting significant reliance on contract labor in 2021, consider that when budgeting staffing expenses.

Rates: You must ensure that all rates are updated, and any known funding issues must be reflected when calculating revenue. Budget conservatively to avoid hardships if rates decrease in the future. Consider some additional recommendations:

Ensure that your contractual allowance rate (i.e., the difference between gross revenue and what you are actually paid by the provider) is accurately factored into your revenue totals.

Make sure you budget for changes in your rates when you know they take place (e.g., Medicaid).

Vendor contracts: If your organization or facility signed new contracts with insurance providers or contracted staff, make sure increases or decreases have been broken out properly in the correct months of service. Traditionally, contract labor has been a difficult item to budget, especially if you weren't used to using it before the pandemic. Be realistic about when contract labor expenses will be needed.

Once assumptions are finalized, review the budget to ensure all formulas are calculating correctly and all general ledger accounts have been accounted for in your budget. Next, give department heads an opportunity to review their budgets. They have insight on specific, typical monthly spending and can help head off unpleasant surprises.

Additionally, if you have to meet lender covenants, make sure your numbers ensure that will happen. Finally, compare your yearly budget total to what has occurred historically. If sizable differences stand out, verify the reasons behind them so you can ensure the variances are legitimate. Ideally, every LTPAC wants high revenue and low expenses, but it's necessary to be as accurate as possible to avoid disappointment when the actual numbers come in.

(New article on next page)

Skilled Nursing News

COVID-19 Bill Includes Some Offsets to Part B Cuts Scheduled for Next Year

The changes implemented by the Consolidated Appropriations Act come with many effects to Medicare Part B. Skilled facilities across the country will see some fee schedule cuts and other moves toward assistance that will make senior care a little easier to handle for the next year.

Written by: Maggie Flynn

12/22/2020

The new spending bill passed by Congress on Monday night, which includes $900 billion in COVID-19 relief, also contains some respite for cuts to Medicare Part B that posed a significant threat to therapy operations in skilled nursing facilities.

The Consolidated Appropriations Act of 2021 is now awaiting President Trump's signature, and it includes a range of supports for individuals and businesses.

And though nursing home provider groups expressed disappointment that the bill did not go further in providing direct aid for long-term care, it does contain some offsets to cuts to the physician fee schedule for 2021 that threatened to reduce Medicare Part B therapy payment rates by up to 9%.

According to an email to members of the National Association for the Support of Long-Term Care (NASL) sent to Skilled Nursing News by NASL executive vice president Cynthia Morton, the new bill includes "a partial fix to the fee schedule cuts.

"The bill's fix is a three-year delay of the complexity code (G2211), which is a part of CMS' Evaluation/Management (E/M) reform," the email noted. "CMS had finalized this new code to be used by those practitioners that bill E/M codes to indicate the E/M office visit has additional complexity. CMS will recalculate the conversion factor and take into account the savings from the delay of this code. Congressional summaries estimate to mitigate about one third of the E/M related cuts."

The bill also includes a $3 billion infusion of new funds into the physician fee schedule for 2021, which will increase payments by 3.75% "across the board" next year, according to the email. It also delays the 2% Medicare sequestration cuts that were suspended through December 31 in one of the earliest stimulus packages, for a value of approximately $3 billion over three months, according to NASL's summary.

The cuts to the physician fee schedule, which were finalized on December 1, would have resulted in a reduction of about 9% to Medicare Part B reimbursement for physical therapy (PT) and occupational therapy (OT), with cuts associated with speech therapy as well. The cuts were poised to have a significant effect on the services for patients covered by Medicare Part B, several providers said, with the effect heightened because of the pandemic.

"These cuts occur at a critical time with an ever-increasing need to treat the long-term effects of COVID-19 in our seniors — many have lingering neurological, cardiac, and respiratory issues that affect their ability to function even after the acute phase of the illness has passed," JoLynn Munro, division president at Infinity Rehab, told SNN. "Of note, nearly 60 million Americans have Part B coverage, so the scope of this cut is large."

Skilled Nursing News

As SNFs Prep for COVID Vaccination, Questions Remain for Frontline Workers on Speed and Credibility

As COVID vaccinations are distributed to long-term care facilities, the workers on the front lines still have concerns about the long-term effects of the immunizations. Many workers will need to feel 100% assured that they will not see any adverse effects after the point of injection.

Written by: Maggie Flynn

12/22/2020

With two COVID-19 vaccines officially authorized for use, the immunization of health care workers and long-term care facility residents is finally underway in earnest.

The Food and Drug Administration granted emergency use authorizations (EUAs) to Pfizer's (NYSE: PFE) COVID-19 vaccine on December 11 and to Moderna's (Nasdaq: MRNA) on December 18.

There are several considerations for skilled nursing facilities to take into account as they prepare for the inoculations, from how to handle staff concerns about taking the vaccine to preparing for the impact side effects could have on scheduling.

Vaccinating staff is the critical first step for facilities, from which all the other considerations about workflow and coordination will spring. A webinar held on December 17 tackled some of those considerations. Hosted by the National Association of Health Care Assistants (NAHCA) and AMDA – The Society for Post-Acute and Long-Term Care Medicine, the virtual event gave an overview of some of the concerns expressed by certified nursing assistants (CNAs), with questions and answers between frontline staff and long-term care physicians.

Ultimately, long-term care workers will not be forced to take COVID-19 vaccines, webinar speakers said, even though an advisory committee for the CDC recommended that health care workers and long-term care residents be first in line.

"I'm not going to get up here and tell you that 'You have got to take the shot, get the vaccine,'" Lori Porter, the CEO and co-founder of NAHCA, said during the webinar. "That is a choice you will have to make yourself."

'They aren't the nephew of somebody'

Long-term care workers are not used to being prioritized for interventions like the COVID-19 vaccine, stressed Dr. Swati Gaur, a medical director and the chair of AMDA's Infection Advisory Committee. For many CNAs, this is a particular sticking point; they see being first in line as being effectively guinea pigs for the vaccine.

"There is a lot of background work that has gone on, where we have sat down with [the Department of] Health and Human Services. We have sat down with the CDC," she said. "And we have told them over and over: This is your priority area. The reason why we are getting offered the vaccine – it's not because 'Hey, here's a group we never thought of before, we're going to get them the vaccine.' But because we're having a lot of advocacy effort behind the scenes."

Long-term care facilities have seen significant mortality from COVID-19, she noted, making the vaccine especially important for CNAs and frontline health care workers.

But during the webinar – and in a deep dive published by the Wall Street Journal on December 20 – CNAs expressed concerns about the speed of vaccine development and the potential side effects of the shots, which are taken in two doses about three to four weeks apart, according to the NAHCA webinar.

The physicians on the webinar emphasized that the vaccines were so speedily developed in part because they build off existing research and in part because this was a concerted effort by scientists to prioritize COVID-19 vaccines above all other projects. Plus, there were a large number of volunteer trial participants for both Pfizer and Moderna.

Doctors also emphasized that no steps were skipped in the FDA's EUA process, and that the FDA's Vaccine and Related Biological Products Advisory Committee (VRBPAC) and the CDC's Advisory Committee on Immunization Practices (ACIP)both reviewed the vaccine data.

"These two groups are groups of independent scientists and virologists and they are not part of the government. They are not part of the White House," said Dr. Leslie Eber, a medical director and president of the Colorado chapter of AMDA. "They are not part of Pfizer or Moderna, and they don't have any conflicts of interest, and they're vetted for that. They aren't the nephew of somebody."

That point may be critical, since as Porter noted in a December 2 interview with Skilled Nursing News, there is a trust gap between CNAs and their leadership, and many CNAs feel that even institutions such as the CDC have lost their credibility when it comes to vaccine questions.

This was a point Porter raised on the webinar, which directed CNAs to find "reliable sources" for accurate information – giving the CDC as an example. Her question was simple: How can frontline workers know that their information sources are reliable?

Dr. Timothy Holahan, a medical director in New York and a member of the AMDA ethics committee, recommended checking claims about the vaccines against the actual vaccine study data and finding a trusted source – such as the CDC, NAHCA or someone in a facility — to ask whether certain vaccine claims are true.

It might end up being more complex than that on the ground, however; Porter noted that in May, she was hospitalized and saw no doctors wearing masks, making it difficult to know who to trust.

But all the doctors on the webinar were emphatic that the vaccine is the best means of protecting residents of facilities, long-term care employees, and families of those employees.

Distribution workflow issues

When it comes to scheduling of the vaccines, many SNF providers have partnered with either CVS Health (NYSE: CVS) or Walgreens Boots Alliance (Nasdaq: WBA) to have COVID-19 vaccines distributed under the Centers for Disease Control and Prevention's (CDC) Pharmacy Partnership for Long-term Care (LTC) Program.

CVS's program will involve three pre-selected clinic dates at LTC facilities, with consent forms and posters delivered as part of the process. The first clinic is slated to take place in December, with the second in January of 2021 and the third, if necessary, in February, according to Omnicare's COVID-19 vaccine resource webpage. Omnicare is the long-term care pharmacy arm of CVS.

But there are concerns about that approach. In a December 16 opinion piece written for the skilled nursing executive conference LTC 100, several authors argued that the rollout of the vaccine "is being overseen by outside entities that don't fully understand the typical workflow of individual facilities," which could lead to significant issues for both facility employees and residents.

"If residents are all vaccinated together and have side effects of fever, body aches and other constitutional symptoms, their care needs will increase," Dr. Michael Wasserman, Chad Worz and Pam Schweitzer wrote. "If staff are all vaccinated at the same time, it is quite possible that a significant number of staff will have to miss one or more days of work."

Wasserman is the immediate past president of the California Association of Long Term Care Medicine; Worz is the executive director and CEO for the American Society of Consultant Pharmacists; and Schweitzer is a former Assistant Surgeon General.

The vaccine's side effects can include some short-term discomfort – fatigue, headache, muscle pain, chills, fever and pain at the injection site – and the effects can last for up to 48 hours. As such, Gaur recommended frontline workers get the vaccine before having a couple days off, to allow for recovery of the effects.

In the opinion piece, the authors also advocated staggering the vaccination days to prevent facilities being swamped with call-offs due to the side effects, as well as to accommodate the need for personal protective equipment and infection control procedures for residents who might need to be vaccinated room-by-room. They also suggest engaging medical and pharmacist leadership in SNFs, along with the facility ombudsman, to help with staff and family engagement and coordination.

"We have to pull together to make this work," the authors wrote. "We have to be prepared to pivot away from an arbitrary deployment strategy that is neither evidence-based nor based on sound operational principles. It's our firm belief that the success of a vaccine rollout in long-term care requires engaging – not ignoring – the expertise of medical directors, directors of nursing, consultant pharmacists and ombudsmen."