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McKnight’s

LONG-TERM CARE NEWS

Lawmakers Try to Wedge Open Door to Nursing Home Visitors with Mandated ‘Caregiving’ Program

Written by: Danielle Brown

2/2/2021

Vaccination campaigns and reduced COVID-19 transmission may soon bring visitors back to nursing homes, but officials in one state are using legislation to wedge the doors open now.

Indiana lawmakers are considering a bill that would require all of the state’s 534 skilled nursing facilities to participate in an Essential Family Caregivers Program. Overseen by the state health department, the program allows residents to appoint up to two caregivers who can enter facilities to help with meals, grooming, even companionship — and even when community spread or a positive test in that building might otherwise keep guests out. The program already exists but is optional.

“The intent is to require uniform adoption,” said Zach Cattell, president of the Indiana Health Care Association, which supports the legislation. “It’s understandable because family members may have different experiences in different facilities.”

The bill also requires skilled nursing facilities to allow a visitor during expanded compassionate care situations in language echoing federal regulations issued last fall. Its standards would be implemented in future health emergencies too.

Though Cattell told *McKnight’s Long-Term Care News* he doesn’t expect the legislation to reach the governor until April, it likely will push more facilities to prepare by making the logistical and policy changes needed to accommodate the return of visitors.

Those that haven’t already implemented a caregivers program typically cite lack of time as the reason.

“They are all-consumed by COVID-19,” Cattell said. “At the end of the day, administrators, nurses, the folks who provide this hands-on care, they want to protect their residents... We also want highly involved family members. We want our communities to be open. These are people’s homes.”

The proposed legislation would still allow designated caregivers to enter when county positivity rates are above 10% or if the building has had a positive test within the last 14 days.

As nursing home residents in many states complete their vaccination series, it remains uncertain how long the Centers for Medicare & Medicaid Services will take before relaxing [its visitation policy](#).

A model for others?

It’s unclear how many other states have considered similar legislation fixes while waiting. But Cattell has heard from other state leaders trying to aid families upset about being away from relatives for so long.

In Pennsylvania, a 400-member group rallied at the state capitol beseeching lawmakers to expand visitation rights. Some state legislators pursued a program like Indiana’s but access remains dictated by CMS and health department guidance, according to a state association.

Indiana has seen at least 23,000 cases in nursing homes and long-term care facilities, with more than 4,900 deaths, according to [The Tribune](#). But cases have been declining statewide for eight weeks.

The American Health Care Association said it was not tracking visitation policies state by state but is encouraged by the development of programs like the one in Indiana.

“This will help with prolonged social isolation for our residents, but it will also help supplement care and support for residents during the ongoing public health emergency,” the organization said in an email. “With the pandemic persisting, we must remain vigilant about protecting our nation’s most vulnerable, but balance that with the need to stay connected with loved ones.”

AHCA stressed the need to remain vigilant about infection control as restrictions ease. The Indiana bill would require all caregivers to “take any required testing,” agree to take “precautionary measures including hand hygiene and the wearing of a mask or other personal protective equipment,” and only enter designated areas.

In testimony earlier this week, IHCA’s Laura Brown noted the bill protects facilities from liability for COVID-19 spread among residents or visiting family members if acting within program guidelines and without “gross negligence.”

(New article on next page)

McKnight's

LONG-TERM CARE NEWS

Proposed Provider Relief Fund Infusion Would Deliver Just One-third of Industry Ask

Written by: Danielle Brown

2/8/2021

The Provider Relief Fund would receive an additional \$35 billion under the latest coronavirus relief package proposal. That amount is a far cry from the \$100 billion pledge that providers called for from Congress.

The \$1.9 trillion COVID-19 relief proposal was passed by the Senate late last Thursday and is widely expected to be [fast-tracked](#) through the House. The package included a non-binding amendment proposed by a group of 10 senators that would replenish the [Provider Relief Fund](#) with \$35 billion in new money, with 20% of that set aside for rural health providers.

The senators justified the additional funding saying the fund is a key way to help healthcare providers, including long-term care facilities, “to continue to care for their patients and play a central role in our vaccination and testing strategy,” they wrote in [a letter](#) to President Joe Biden.

LeadingAge in a statement to *McKnight's Long-Term Care News* on Friday noted the amendment is non-binding, meaning Congress does not have to include it in their relief proposal and the \$35 billion number is not set in stone. The organization, however, added it was pleased to see an “indication of Congressional support for much-needed additions to the PRF as part of the next COVID package to ensure providers, who provide critical services to our nation’s growing older adult population, survive the pandemic.”

The American Health Care Association added the organization has been “clear on the need for additional aid to healthcare providers, including long-term care.” The group has lobbied for an additional [\\$100 billion](#) for the Provider Relief Fund, in order to help providers with the ongoing costs of fighting the virus.

“Occupancy has been at record lows due to fewer new patients from the hospital and fewer new residents seeking long-term care,” the group previously [told McKnight's](#). “Long-term care is facing the worst economic crisis in its history because of the pandemic, and hundreds of facilities may have to close their doors in 2021, leaving vulnerable residents without the care they need.”

(New article on next page)

The logo for Skilled Nursing News features a stylized orange and grey icon of a person or a cluster of people to the left of the text "Skilled Nursing News". "Skilled Nursing" is in a dark grey font, and "News" is in a larger, orange font.

Parkinson: Given COVID's Toll, Nursing Homes Will — and Should — Get Significant Oversight Overhaul

Written by: Lisa Gillespie

2/7/2021

With a change in presidential administration comes changes in policy, and skilled nursing facilities should expect a shift in the approach of the federal government to regulation.

As the SNF sector emerges from the devastation of COVID-19, they are also going to receive significant oversight from the administration of Democratic President Joe Biden. And according to the head of one of the largest nursing home trade groups in the country, that's as it should be.

"We are going to have a large amount of oversight on our sector," Mark Parkinson, the president and CEO of the American Health Care Association (AHCA) said last week during Skilled Nursing News's virtual Payments, Policy and Capital Summit. "And we should. I mean, we have had over 500,000 people in our buildings contract COVID, and we've had over 100,000 people die. The system should be analyzing what in the heck went wrong and what happened and what should we do about it in the future?"

The fact that 563,000 long-term care residents tested positive for COVID-19 needs to be put into context, he noted at the summit; there are approximately 1.2 million long-term care residents total. And this does not include independent and assisted living facilities, which have shakier data than SNFs, Parkinson noted.

The death toll in SNFs — more than double the 50,000 deaths of the Vietnam War — means that operators should expect oversight, even as they depend on government support to maintain operations and stave off closure.

The financial aid in 2020 was significant and helped keep many SNFs operating, Parkinson said; on top of the more than \$10 billion that came out of the CARES Act's Provider Relief Fund that went directly to nursing homes, the sequestration 2% cut was eliminated and another 2% increase was granted under the Patient-Driven Payment Model (PDP) for Medicare patients. In addition, an increase in the Federal Medical Assistance Percentage (FMAP) was enacted, though only some states passed that increase on to nursing homes in the form of enhanced Medicaid rates.

Several waivers from the Centers for Medicare & Medicaid Services (CMS) made operations easier for SNFs in fighting the COVID-19 pandemic. But with occupancy in deep trouble, AHCA is going to continue "advocating for significant tranches of money to the skilled nursing sector" in Washington, D.C., not just for increases of 2% to 3%, Parkinson said at the summit.

But Parkinson emphasized that he wants the sector to be proactive in proposing solutions to the problems that emerged with horrible clarity over the course of the pandemic. And SNFs will have to be proactive to have a shot at convincing lawmakers to lend them the support they need.

"In our discussions with leadership on Capitol Hill, the advice that they have given us has consistently been the

same, which is: You guys better have a plan,” Parkinson said. “If you don’t have a plan, you’re going to have a plan thrown upon you.”

Multiple unknowns remain about how the Biden administration will be approaching the nursing home sector, though Parkinson said he believes there will be a pivot away from the model of the Trump administration, which examined whether some of the Requirements of Participation “had gone too far.”

Parkinson also predicted a new focus on arbitration in the Biden administration, with the goal of slowing down or halting its use. In the Obama administration, there was a push to ban SNFs from using mandatory arbitration agreements altogether, one that [drew a lawsuit from AHCA](#) and [an eventual injunction](#).

The Trump administration eventually overturned the Obama-era ban on arbitration, though it added several provisions for consumer protections, [multiple lawyers told SNN in 2019](#).

Advocates, physicians, and the family members of residents all have proposed various solutions to help fix the problems in SNFs that were illuminated by the pandemic — ranging from establishing minimum staffing ratios to requiring a full-time infection preventionist on site in facilities. And many of the SNF sector’s critics will try to get enforcement increased to some degree, Parkinson predicted.

AHCA’s board is in the process of putting together a plan of action to bring to lawmakers, and though Parkinson did not delve into specifics, citing the fact that discussions are ongoing, he said the plan centers around being clear that the pandemic was not **entirely** the fault of SNFs — while acknowledging the need for improvement.

“All of those ideas that have been out there in the past are going to be discussed, and have a real possibility of occurring,” he said. “So we have to make the decision as a sector: Are we going to be part of the conversation, are we just going to sit back and wait and see what’s done to us?”

The one stipulation for whatever the board comes out with is that payment is needed, Parkinson said. Boosting registered nurse coverage, for example, or adding a full-time infection preventionist, are steps that SNFs would advocate for as long as there is some kind of funding to support them.

Wages are one critical area for improvement; many certified nursing assistants (CNAs) are starting at wages of \$9 or \$10 per hour, “just not a livable wage,” as Parkinson noted.

“Our argument’s always been: Well, you got to pay us under Medicaid a sufficient amount so that we can pay a livable wage,” he said. “I think we’re going to be more aggressive in that, I think we’re going to say: Look, we’ve got to get these people up to a point where they’re making what you need to survive, at a minimum.”

When it comes to wages, some operators have been concerned about the potential for Congress to pass a \$15-per-hour minimum wage; in several states, CNAs make much less than that, which Parkinson said was correlated to states with low Medicaid reimbursement rates.

AHCA will be calling for lawmakers to create a Medicaid mechanism that helps states meet a \$15-per-hour minimum wage — if such a law is passed. A stimulus bill to likely pass in mid-March is to be debated using the reconciliation process, which requires only 51 votes in the Senate. This process can only be used for budget matters, Parkinson said, so “the prevailing view” is that a minimum wage increase cannot be passed by Democrats in a reconciliation bill.

Though that won’t be definite until the parliamentarian makes a ruling, the other question is whether all 50 Democrats would vote for such a bill; according to Parkinson, this is not clear. Meanwhile a proposal from the

Biden administration on minimum wage does increase it to \$15 per hour, but only gradually, with the \$15 effect not fully implemented until 2025 — a factor Parkinson said operators need to keep in mind.

“It’s not like all of a sudden, in next week’s paycheck, you have to increase to \$15 an hour,” Parkinson noted. “There is a glide path, so that in most states, this really wouldn’t be that much of an issue. But I do realize that there are a few states, particularly in the South, Midwest, upper Midwest, where it would still be a problem.”

Another critical area will be overhauling facilities to allow for more private rooms. Housing multiple people in a room proved an extremely hazardous arrangement in the COVID-19 era, to say nothing of its effect on resident quality of life.

Yet this practice remains fairly widespread in the SNF space, and some states have actually started to offer funding to eliminate multi-patient rooms, Parkinson said.

“I didn’t realize coming into the pandemic, how many rooms there are that are out there that are still three and four residents to a room,” he said during the summit. “I think there’s going to be a real push by the states can come up with some way to accommodate funding, so that we don’t have those because obviously, in a pandemic, those have been problematic.”



Parkinson: Nursing Homes’ Financial, Operational Recovery ‘Completely Tied to Visitation’

Written by: Maggie Flynn

2/3/2021

As skilled nursing facilities roll up their sleeves at varying rates for the vaccine against COVID-19, their clinical situation amid the pandemic is improving rapidly, a turnaround from 2020 made almost fully complete with the distribution of vaccines.

But the financial outlook, shaped by dismal occupancy numbers that show no signs of recovery, is becoming dire, Mark Parkinson, the president and CEO of the American Health Care Association (AHCA), said during a Wednesday discussion at Skilled Nursing News’ virtual Payments, Policy, and Capital Summit.

Toward the end of 2020, occupancy was at roughly 71% to 72%, down from roughly 80% at the start of the pandemic — but that was before the third wave of COVID-19 that hit in November and December of 2020.

Ultimately, that third wave led to a hit on SNF census that led to them being down roughly 13% to 14%, “a much tougher hole to dig out of,” Parkinson said.

But there are some grounds for optimism in the vaccine rollout, at least in terms of the impact the inoculations will have. While staff uptake rates of the COVID-19 vaccine have been slower than most operators would like, high rates of resident participation could signal a light at the end of the tunnel in terms of new cases, which hit a peak the week of December 20, 2020 with more than 30,000 new COVID-19 cases in facilities.

That number fell to 17,000 in the last reporting period, and based on his conversations with providers, Parkinson believes the numbers will continue to decline.

“I believe there’s a very real possibility that in the next 30 to 60 days, we’re going to see continued plummeting in the number of new cases of COVID in our facilities, and therefore a real, significant reduction in deaths,” he said. “As the vaccination program rolls out, as more people in the general public become vaccinated, and certainly the vaccination in our buildings, I really think that 2021 will be a year of recovery on the clinical side, and the worst numbers are behind us.”

No recovery without visitation

The vaccine clinics will help considerably in ending the “clinical part of the nightmare” that has been COVID-19 for SNFs. Once two to three weeks pass after the second clinic, those who have been vaccinated will have developed antibodies to COVID-19, Parkinson noted.

After that comes the hard part. The recovery needs to be significant, and it needs to come significantly faster than it did before the third COVID-19 wave, he said.

“I think the census needs to recover about 1% a month. If we can recover 1% a month on a steady basis, you know, that gets us to the end of 2021,” Parkinson said. “And we’re still down, but we’re down 5% or 6%; we’re not down 13% or 14%. If we recover a half a percent, some businesses will be okay, but not all. If we only recover half a percent, we don’t get any more money, folks are going to have problems. If we don’t have any recovery on census ... things are very, very bad.”

SNFs have been hammered on occupancy since the start of the pandemic, and unlike their home health counterparts, they have not seen referrals recover even as hospitals have begun to reinstate elective surgeries.

In some parts of the country, occupancy rates are as low as 55.7%, according to a recent analysis from the professional services firm CliftonLarsonAlan (CLA).

At least on the clinical side, Parkinson sees 2021 as a year of recovery. While the rollout of vaccines to a wider population has been the target of widespread criticism, the Pharmacy Partnership for Long-Term Care Program has been fairly successful, he said. Though staff uptake has been disappointing – at around 37.5%, according to the Centers for Disease Control and Prevention (CDC) – resident uptake has been quite high, somewhere around 80% to 90%, he noted.

The success of vaccination, both in communities in long-term care facilities is directly linked to several factors that tie into COVID-19 in nursing homes, Parkinson stressed. If more members of a community are vaccinated, community spread will decline — reducing the risk of one of the top predicting factors of COVID-19 outbreaks in nursing facilities. That in turn would send hospitals back to a more normal mode of operations, which might in turn make them more inclined to send referrals to SNFs.

“There are a number of layers to it,” Parkinson said of recovery. “But they all start with the vaccine. We’ve got to get the vaccines in the buildings, and we’ve got to get people to actually take the shots.”

Several operators have indicated to SNN that nursing home visitation rules are based on the policies of their local health departments and case counts in the surrounding area, rather than vaccination rates. But Parkinson believes that operators who are able to convince their staff to get vaccinated in large numbers “are going to have an enormous competitive advantage,” when it comes to making a case for hospital referrals and restoring trust among the public.

“I really think the market is going to require that in order to recover on census,” he said. “I also think that CMS could easily issue some regulations here, fairly soon, that’ll open up visitation — but only if there has been a certain threshold met in terms of staff uptake, like 70% or 80% of the staff have taken the vaccine.”

And visitation is emerging as one of the most critical considerations for occupancy; family members are naturally wary of putting their loved ones into facilities with the possibility of COVID-related lockdowns looming large, and those who have loved ones in the SNF setting are increasingly anxious to see them as the vaccination program rolls out.

That makes it all the more paramount for facilities to ensure vaccine uptake among staff, especially as CMS and the CDC evaluate the data on vaccines and COVID-19 rates in SNFs.

“I think that recovery of the sector is completely tied to visitation,” Parkinson said. “People do not want to have their loved ones admitted into a facility when they can’t visit them, and nobody wants to move to a facility when they can’t have visitors.”

Skilled Nursing News

Nursing Homes Can Secure Medicaid Boosts, but Operators Must Promise Quality Gains in Return

Written by: Maggie Flynn

2/8/2021

The majority of patients at any nursing facility have their care covered by the Medicaid program of any given state, and those rates are notorious for being insufficient to cover the cost of the services those patients demand — to the point that operators from multiple states can argue near-simultaneously that it is theirs with the lowest reimbursement.

In fact, several operators have cited [low Medicaid rates](#) as [a driving force in closures](#) or [low wages for staff](#).

The state of Oklahoma was among the many states with a low Medicaid rate, and it was able to secure [an increase in the state’s reimbursement for long-term care](#) in 2019.

However, that push to secure a Medicaid increase wasn’t the first time the nursing home sector in the state had tried. An attempt during the 2018 legislative session failed, while several cities in the state [took on nursing home licenses](#) as part of an effort to become eligible for [supplemental payment programs](#) — a move that the Centers for Medicare and Medicaid Services (CMS) [ultimately rejected](#).

A critical part of the successful process was making a commitment to quality improvements, Scott Pilgrim, the CEO of the Diakonos Group, and Eddie Parades, senior vice president of government affairs at StoneGate Senior Living, explained during Skilled Nursing News’s virtual Payments, Policy, and Capital Summit last week.

Diakonos operates SNFs and senior housing communities in Oklahoma, while StoneGate has locations in Texas, Oklahoma, and Colorado.

“We had tried ... to make a significant argument for a significant rate increase based upon quality and value-based methodologies,” Pilgrim said on February 2. “And quite honestly, we failed. We failed because we didn’t have what we call all the ornaments on the tree. We failed because we didn’t build a coalition that we needed to build to push this through.”

Parades pointed to another major factor in the first failure of Oklahoma’s nursing home providers, one that could have implications for SNFs across the country as they try to lobby for Medicaid support amid the fallout of a pandemic that has ravaged economies from top to bottom.

“One of the reasons why we failed ... is we went to the capital with our hands out and said: You need to pay us more because our costs are low,” he said during the panel. “And we made a mistake on not giving value in return, and [not having], as Scott said, a coalition.”

What that means for SNFs looking to make a case for increased Medicaid reimbursement to their state governments is this, Parades explained: Find out the issues that are important to specific committee chairs. Find out what is important to the agenda-setting lawmakers. In Oklahoma, the SNF sector approached the local AARP and ombudsmen, as well as non-profits, to research issues that were important to them in terms of nursing home quality.

“I think that was the key part, it just wasn’t adding quality or value-based [metrics] to achieve the rate increase,” Parades noted. “It was strategically designed on what those requests were, so that it would move our request forward.”

This aspect of considering issues of nursing home quality that are important to a range of stakeholders is vital — both to achieve the goal of improving care, and given the reality that SNFs can expect [major changes in oversight](#) amid the pandemic and its aftermath.

“In our discussions with leadership on Capitol Hill, the advice that they have given us has consistently been the same, which is: You guys better have a plan,” Mark Parkinson, the president and CEO of the nursing home trade group American Health Care Association, said during a different summit panel. “If you don’t have a plan, you’re going to have a plan thrown upon you.”

Oklahoma’s nursing homes provide a template of sorts for how operators might craft such a plan. In 2019, SNFs developed a program with a rate increase and “significant value enhancements” within it, Pilgrim said.

“The portion of the rate increase that was tied to value, though, was actually relatively small compared to the overall rate increase,” he said. “But the fact that we put on the value-based portion of this allowed us to drag along the more significant overall rate increase, to bring us up at the time to cost.”

Oklahoma’s Medicaid reimbursement now incorporates [four metrics](#), specifically the four federal nursing home quality measures on which the state was performing the worst: pressure ulcers, urinary tract infections, use of antipsychotics, and weight loss among nursing home residents. These metrics, however, might change as nursing homes improve their performance, Pilgrim noted.

Nursing homes that are at least above the federal average, or have made improvements over time in those metrics can make roughly \$1.25 extra per patient per day for each metric — for a total of \$5 a day if they exceed on all four, Pilgrim said. But in addition, any facility in the state that does not meet all those these metrics has those extra funds budgeted by the state “put back in the pot” for other facilities, he said.

“So right now, this last quarter, I think, if you achieved as a facility, all four those metrics, you can get an extra

[roughly] \$7.48,” he said. “And I know almost all of [Parades’] buildings and almost all my buildings, we get all four of those metrics.”

But to achieve this rate increase, the nursing homes committed to some key components — even though they did not necessarily generate additional reimbursement, Pilgrim said. This included additional Alzheimer’s training, an issue important to the Alzheimer’s Association and several of the key lawmakers in the state; allowing a 24-hour staffing ratio, compared with a shift-by-shift ratio; adding additional ombudsmen through the state so they were not reliant solely on volunteers in some markets; and raising the resident personal needs allowance by 50% for Medicaid patients.

These elements were narrowed down from about eight or nine, given the different desires of the various stakeholders, Parades noted, but the number was eventually winnowed to those that would move lawmakers to push the bill through the legislature. That allowed for a wide range of voices speaking up for the bill.

“Putting all of those ornaments on on the Christmas tree really allowed us to pull together a large coalition of stakeholders to not only endorse, but to actively support and push our legislature for that bill,” Pilgrim said.

That included direct marketing to lawmakers by the group set up to help support the bill, the Oklahoma Health Action Network, which crafted an e-mail and social media campaign that targeted specific lawmakers. This targeting helped the campaign on Medicaid stand out from from e-mails in more typical electronic lobbying.

“It was a little bit scary how targeted this could be,” Pilgrim said. “For example, we could, in social media ads — if somebody is sitting in the capital, in Oklahoma, we can steer all of our ads and all of our dollars to somebody that’s sitting at 23rd and Lincoln [in Oklahoma City], which is interesting. But you can dial it down enough that we targeted these ads to the actuals reps’ and senators’ home addresses. So when they sat down in the evening, and put their feet up in the recliner, and pulled their computer out, they were deluged with our ads, and the person 10 houses down wouldn’t necessarily get that ad. So we were able to be very efficient in our spending.”

And with the success of the bill, Oklahoma’s nursing homes have since beaten the national average in three of the four QMs, as a state, with progress on the fourth one, he added.

“So we’ve not only driven reimbursement, but we’ve driven quality,” Pilgrim said. “And that tide has raised all boats.”

For SNFs in other states trying to draw lessons from Oklahoma’s success, Parades strongly recommended that SNFs identify the nursing home quality issues important to the key lawmakers, such as whether the chairman of a state Senate finance committee is passionate about Alzheimer’s disease or mental health issues – to say nothing of identifying the key legislative leaders who can move a bill forward.

And with the spotlight on nursing homes during the COVID-19 pandemic, he strongly recommended SNFs seize the moment to address quality measures related to infection control.

“In my opinion, related to COVID, strike while the iron is hot,” Parades recommended. “Right now, we have never had greater exposure than we do today. It seems to me ... the buzzword is infection control. The more you can build your quality measures geared toward infection control, the more you probably can help your current federal compliance, your future federal compliance, and also earn quality payments at the same time.”