

February 16, 2024

Complete the AHCA/NCAL State of the Sector Survey By the End of TODAY!

AHCA/NCAL is asking providers (SNF, ALF, ID/DD) to complete a [10-minute survey](#) to gauge your operations and how they can prioritize key issues. Providers will be asked about a few topics, including workforce, access to care, and finances.

You may [download a copy of the questionnaire](#), if you wish to gather the necessary information before filling it out online.

Your participation will help AHCA/NCAL advocate for resources and common-sense policies for the profession. Please complete the survey by the end of the day TODAY (7 pm CST).

April 2024 Staffing Five-Star Projections Added to LTC Trent Tracker

In April 2024, CMS will adjust the five-star staffing scoring methodology to penalize missing turnover data. Missing turnover rates will be scored at the lowest points possible (e.g. 5 out of 50 points) instead of rebasing the scoring to allow missing data to be neutral.

Other Payroll-Based Journal (PBJ)-related Five-Star penalties remain, such as an automatic 1-star staffing rating for not submitting PBJ data or having four or more days with no registered nurse hours. For more details, please see the [CMS Five-Star Technical Manual](#) and the [CMS Memo from September 2023](#).

[\(READ MORE\)](#)

What to Know About the Independent Contractors Final Rule

On January 10, 2024, the U.S. Department of Labor (DOL) published a final rule, entitled [“Employee or Independent Contractor Classification Under the Fair Labor Standards Act”](#), which goes into effect on **March 11, 2024**. This rule revises the

Department's guidance on how the agency determines who is an employee or independent contractor under the Fair Labor Standards Act (FLSA). It specifically rescinds the Independent Contractor Status Under the Fair Labor Standards Act rule ([2021 IC Rule](#)), that was published on January 7, 2021, under the Trump Administration, and essentially reverts to the agency's earlier and broader multi-factor economic realities test.

The new standard will, in certain circumstances, make it more difficult for long term care providers to properly classify a worker as an independent contractor. Likewise, this final rule has the potential to place greater financial and legal burdens on long term care providers as existing contract workers may now need to be reclassified as employees under the new standards. More specifically, the rule includes that a worker is not an independent contractor if they are, as a matter of economic reality, economically dependent on an employer for work.

AHCA/NCAL has provided a [summary](#) for its members with additional, vital information. Please note that an AHCA/NCAL member log-in is required to view the summary. Please contact [Dana Ritchie](#) with any questions or comments.

Providers Required to Submit Managing Employee Information to Provider Enrollment Records IMMEDIATELY

On February 8, the [CMS MLN Connects newsletter](#) clarified for providers that "... hospice and skilled nursing facility medical directors and administrators are always considered managing employees for Medicare provider enrollment purposes. You must report all current managing employees. If you haven't reported a medical director or administrator, report them now."

Per an email to AHCA/NCAL from CMS, **the information referenced in the MLN notice can be furnished via a CMS-855A change of information (COI) submission.** SNFs can obtain information about the COI process for reporting SNF medical directors and administrators via the [CMS enrollment website](#) or by contacting their local MAC.

Prior to this notice, it was unclear whether recent regulatory changes explicitly required these individuals to be reported on SNF provider enrollment documentation submitted via a COI submission, or during the next revalidation period. **This notice provides clarification that providers should not wait for the revalidation and must submit any missing medical director or administrator via the COI submission as soon as possible.**

CMS Releases FAQs Clarifying 2024 Medicare Advantage Final Rule

Recently, CMS released [frequently asked questions](#) (FAQs) pertaining to coverage criteria and utilization management requirements in the 2024 Medicare Advantage (MA) final rule. The requirements in the final rule are intended to create parity between MA and Traditional Medicare, enhance beneficiary protections, and increase program oversight. There are 14 FAQs providing clarification on several areas, including interrupted stays, algorithms, and artificial intelligence (AI) use in determining length of stays and terminating care, post-payment audits and denials of

payment for authorized services, use of prior authorizations, and enforcement. These topics were part of the ask by AHCA and the coalition of long-term and post-acute care associations and the Center for Medicare Advocacy in its letter submitted on November 29, 2023, and meeting with CMS on January 3, 2024.

Highlights include:

([READ MORE](#))

Reimbursement Update

We realize this update is beginning to sound like a broken record and is very frustrating to everyone. Please know we are doing everything we can to expedite the \$10PPD and \$.87 VBP rate adjustments. We still do not have a definitive timeframe for when the \$10PPD and \$.87 VBP adjustment along with the 1/1/24 CMI/VBP semi-annual rate adjustment will come. We have had numerous communications this week with Medicaid Director, Todd Richardson, and his staff. In addition, Lt. Governor Mike Kehoe has engaged to try to assist getting this moving. All are doing everything they can to help us get this done.

The hold up continues to be acquiring all the necessary legal approvals prior to filing the emergency regulation. This was slowed down some due to changes that needed to be made to the regulation (which had already been drafted and ready for sign-off upon CMS SPA approval). As previously reported, the regulation had already been drafted to be consistent with the SPA submitted to CMS. CMS made slight tweaks to the regulation. As a result, the state had to go back and make the corresponding changes to match the SPA and go through the approval process again. None of these changes impact the rate; however, they have significantly impacted the speed in which the state is typically able to process our rates after gaining CMS approval.

The good news is I believe we are VERY close, and we have confirmed it is now in the Governor's Office waiting final approval. This final approval is that last step necessary before the emergency regulation is filed with the Secretary of State's Office. The Governor's Office has told MOHealthNet and Lt. Governor Kehoe that they are working to expedite the approval and expect it to come any day now. Once the emergency regulation is filed with the Secretary of State's office MO HealthNet will begin processing the final rate letters.

Your next questions are: WHEN will we get our rate letters? WHICH pay cycle will the new rates begin to be paid? WHEN will we get our retro-payment back to 7/1/23?

The short answer is the state cannot give definitive dates on any of those questions. However, I feel very strongly that the rate letters will come out in the next couple weeks, and I believe it is very likely the new rate will begin to be paid out with the first pay cycle in March. Please note, this is not definitive and only a guess – once I am given a definitive date, I will immediately share that with the membership. I have been asked by many members to push harder to get this processed – I cannot push any harder than we are already pushing, and we have involved other political figures to help get this expedited. We understand how critical it is to get this ASAP.

In regard to the 7/1/23 \$10 PPD and VBP incentive retro pay, it will likely take the state at least a month, after the new rate is paid, to process the retro payment. As such, I would not expect to receive any retro pay due to you prior to April but believe it will come in one of the pay cycles in April.

Please remember, if you have a recoupment owed to the state because of rate reductions as a result of a decrease in your 1/1/23, 7/1/23 and/or 1/1/24 CMI/VBP incentive – that recoupment will be taken out of the \$10 PPD retro payment. In regard to the recoupments, I have been told there are a small number of facilities whose recoupments cannot be paid in full from the \$10 retro pay. MO HealthNet will work with us on a fair recoupment process for any facilities in that situation. However, none of this will slow down the rate change you will receive as a result of the \$10 PPD increase.

As soon as we learn when the rates letters are being release and when you will be paid the new rate, we will immediately report it to membership. I am cautiously optimistic we will finally get definitive answers in the next week or so.

CMS Releases Medicare Advantage RFI and CY25 Advance Notice

On January 30, CMS published a [request for information](#) (RFI) seeking feedback from broad perspectives on Medicare Advantage (MA) data currently collected and not collected, including format that will provide better transparency into MA organizations and their operations. The goal of the RFI is to make MA data commensurate with traditional Medicare for transparency and comparison to other programs such as ACOs and other programs. This RFI is an extension of the previously issued general RFI in August 2022, which received over 4,000 responses. Themes in that response included the need for stronger beneficiary protections, payment issues, and programmatic data.

Topics of interest include:

([READ MORE](#))

Maintaining Your Respiratory Protection Program in LTC Facilities - Actions and Frequencies

LTC facilities must adhere to specific requirements for compliance with the Occupational Health and Safety Administration (OSHA) [Respiratory Protection Standard \(29 CFR 1910.134\)](#). The nature of airborne hazards, the presence of respiratory threats, the specific respiratory protection program, and the resulting compliance requirements will vary between organizations. Employers must recognize that once a Respiratory Protection Program (RPP) is established, ongoing maintenance is necessary to ensure compliance with the OSHA standard.

The following are areas of a Respiratory Protection Program that likely require regular action by the organization:

([READ MORE](#))

MC5 Webinar - The Validation Method: Connect and

Communicate with Older Adults

Mark your calendars for this upcoming webinar from MC5! On March 6, [The Validation Method: Connect and Communicate with Older Adults](#) will be offered by Vicki deKlerk, Executive Director, The Validation Institute.

Over 37 years ago, when reality orientation was the norm, Naomi Feil, a woman with unique empathy and insight into the world of disoriented elders, created the Validation Method, motivating older adults with cognitive decline to communicate more, relieve stress, and enhance dignity and happiness in their final stage of life.

Today, the validation method is practiced around the world, and her daughter, Vicki deKlerk, continues her work through the Validation Training Institute, providing education, quality standards and easy pathways for learning this evidence-based method.

Through the magic of Zoom, Vicki will join us from the Netherlands, using interactive exercises, she will describe, demonstrate, and share 2 key prerequisite skills of the Validation Method. There will be an opportunity to share in conversation and engage in a Q & A with attendees. Please click [here](#) to register and learn more.

New QIPMO Newsletter - February 2024

The Quality Improvement Program for Missouri (QIPMO) has published [MDS Tips and Clinical Pearls \(Volume 11, Issue 2\)](#).

In this issue:

- You Know What They Say About Assuming?!
- ICAR Corner
- Music Soothes the Savage Beast
- Tracheostomy 101

Please visit QIPMO's website [here](#) for this and other previous newsletters.

Administrator License Renewals

IMPORTANT: Missouri licensed administrators (NHA or RCAL) expiring June 30, 2024, are due for license renewal. If you plan to renew, please visit the BNHA website at <https://health.mo.gov/bnha> for important information regarding continuing education and license renewal.

Once your renewal has been successfully processed, you will be issued a current license via email. Please note if you fail to renew by June 30, 2024, you cannot practice as a licensed administrator after that date.

Empowering LTC Providers in the Fight Against Respiratory Diseases with #GetVaccinated Resources

In the ever-evolving battle against respiratory diseases, LTC providers play a pivotal role in safeguarding the health of our most vulnerable populations. As rates of

respiratory diseases remain high across the country, your ongoing efforts in encouraging vaccinations among residents and staff are more crucial than ever.

Residents in LTC communities are among those at the highest risk of severe disease and illness from common respiratory viruses, including the flu, RSV, and COVID-19. The good news is that safe, effective, and accessible vaccines are available to protect these individuals from serious illness or even death.

[\(READ MORE\)](#)

AHCA/NCAL to Host LTC Workshop Webinar Series

This year, AHCA/NCAL will hold a [webinar series](#) focused on workforce-related matters impacting long term care (LTC) providers across the country. This series will focus on issues including:

- Career ladders,
- Getting more youth interested in the LTC field, and
- Hiring immigrants and refugees.

During this series, attendees will hear directly from provider members – including AHCA/NCAL workforce committee members – and other experts on these matters and best practices from their experiences. It will also be an opportunity to get pressing questions answered. The first webinar in this series will occur on **Friday, March 1 at 2 pm CST** and is entitled “*Building the Path: Creating Careers in Long Term Care*”. Please click [here](#) to register.

Information will be shared on the other webinars throughout the year. For questions about this webinar series, please contact AHCA’s AVP of Workforce and Constituency Services, [Dana Ritchie](#), and AHCA’s Senior Director of Quality Improvement, [Urvi Patel](#).

The Center of Excellence for Behavior Health in Nursing Facilities

The COE-NF also released new trainings for the month of February that offers Accreditation Council for Continuing Medical Education (ACCME) credits. The COE-NF also continues to provide [tailored technical assistance](#), such as an individualized plan to assist your facility with specific behavioral health needs to include training as needed.

Upcoming February Training Sessions:

- [Mental Health First Aid \(MHFA\)](#) - February 23 from 10 am – 3:30 pm CST
- [An Introduction to Substance Use Disorders](#) - February 29 from 1-2 pm CST

The COE-NF has [on-demand training videos](#), which includes bite-sized learnings and longer video modules with pre/posttests on topics such as Schizophrenia, Bipolar Disorder, Mental Health, Substance Use, Trauma Informed Care, and Alcohol Use Disorder. They also offer a wide array of resources on a multitude of mental health topics via the [resource hub](#).

Other Links:

- [The Center of Excellence Fact Sheet](#)
 - [Sign up for the monthly newsletter](#)
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Assisted Living Webinar Series - The New Generation and the Challenges they Face

Assisted Living is going through a period of change. Is your facility ready? This webinar series, led by Speaker Barbara Speedling, will discuss topics including caring for the new generation in assisted living, overcoming social isolation and loneliness, preventing resident-to-resident aggression, and leadership in a transformative culture. AHCA/NCAL members can purchase individual webinars for \$25 each, or bundle and save by purchasing all four webinars now at the discounted rate of \$90.

- **Wednesday, April 17 at 1 pm CST – [Caring for a New Generation in Assisted Living](#)**
 - **Wednesday, June 12 at 1 pm CST – [All by Myself: Overcoming Social Isolation and Loneliness in Assisted Living](#)**
 - **Wednesday, August 14 at 1 pm CST – [Love Your Neighbor: Preventing Resident-to-Resident Aggression](#)**
 - **Wednesday, October 16 at 1 pm CST – [Metamorphosis: Leadership in a Transformative Culture](#)**
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CNA Testing Events

All regional dates are viewable on the online calendar at <https://mo.tmutest.com/calendar>. **IMPORTANT** – these are not the only test sites available. If you need a different testing location, please call Headmaster D&S (1-800-393-8664) and ask for the Missouri Team.

PLEASE NOTE: There have been changes to scheduling tests through TMU and to the paperwork for RN Observers. Please reach out to Headmaster with questions. missouri@hdmaster.com.

Knowledge and Skill testing is available March 11 at MHCA. Please contact shellie@mohealthcare.com to reserve a time slot.

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