



DD Digest¹

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On the Hill

Senate Begins Health Care Reform Debate

The U.S. Senate has begun debate on their version of the health care reform legislation – the Patient Protection and Affordable Care Act. Due to arcane and technical Congressional procedures, the legislation does not have a Senate bill number; rather it will be referenced as an amendment to the unrelated H.R. 3590.



¹ December 17, 2009, Copyright AHCA/NCAL. 1201 L St. N.W., Washington D.C., 20005. Staff contact: Melissa Temkin, mtemkin@ahca.org, 202-898-2822.

The 2,074-page bill is projected to be debated by the Senate until the end of the month. In the meantime, AHCA continues to be in regular contact and discussions with key Senate staff. Questions? Click to contact [Reed Franklin](#).

President Obama Signs Order Seeking to Prevent Improper Federal Payments

Recently, President Obama signed an [Executive Order \(E.O.\)](#), requiring the Director of the Office of Management and Budget, within the next 90 days, to identify Federal programs in which the highest dollar value or majority of government-wide payments occur. The Administration plans to crack down on fraud, waste and abuse in health care sectors, including long term care. The E.O. also authorizes an official in a Senate-confirmed position, such as at HHS, who has been designated by the head of the agency to provide the agency's inspector general a report containing the methodology for identifying and measuring improper payments, the plans for meeting reduction targets for improper payments and the agency's plan to ensure that initiatives undertaken do not unduly burden program access and participation by eligible beneficiaries. Questions? Click to contact [Dianne De La Mare](#).

HHS Releases Semiannual Regulatory Agenda

The U.S. Department of Health and Human Services (HHS) has released its [Semiannual Regulatory Agenda](#), outlining the inventory of rulemaking actions under development at the agency. Under CMS key actions listed by the agency, issues important to long term care providers include:

- Home and Community-Based Services (HCBS) State Plan Option
- Requirements for long term care facilities-Hospice Services
- State Flexibility for Medicaid Benefit Packages

Please contact [Dianne De La Mare](#) with any questions.

CMS News

Enrollment for Medicare Part D is Open Until Dec. 31

It's now open season for enrollment in the Medicare Part D prescription drug program. People who are newly eligible for Medicare, as well as current beneficiaries who are considering changes to their Medicare Part D plan, can make their changes until **Dec. 31, 2009**.



Some Medicare beneficiaries with limited income and

resources can get *extra help* to pay for monthly premiums, annual deductibles, and prescription co-payments. The *extra help*, available through Social Security, is worth an average of \$3,900 per year.

Starting **Jan. 1, 2010**, changes in the law make it easier for some people to qualify for the *extra help*. Under the *Medicare Improvements for Patients and Providers Act*, Social Security:

- Will no longer count any life insurance policy as a resource; and
- Will no longer count income provided by someone helping an individual on Social Security to pay for household expenses such as food, mortgage, rent, heating fuel or gas, electricity, water, and property taxes on a regular basis.

Learn more by reading the Social Security Administration's electronic fact sheet, [*Changes in the Law Could Make More People Eligible for Extra Help in 2010.*](#)

Our Sponsor!

CareTracker by Resource Systems

CareTracker by Resource Systems is an innovative electronic documentation system proven to save time, improve quality of care, and reduce risk by allowing DD providers to use touch screen computers to track individuals' supportive documentation. For more information on CareTracker, go to

http://www.seecaretracker.com/caretracker_in_dd

[htm](#), or contact Dustin Eubanks at (800) 338-3681 or deubanks@resourcesystems.net.



Events

Seeking Speakers for the 2010 DD Track!

AHCA is seeking speakers for the DD track at our next Annual meeting, held October 10-13, 2010 in Long Beach, CA. Please go to

http://www.ahcancal.org/events/ahca_convention/Pages/CallforPresentations.aspx to

download and fill out the proposal form. Upon completion, e-mail it to [Melissa Temkin](#). **The deadline for proposals for the DD track has been extended beyond the original deadline of November 30, 2009.**

Mark Your Calendars for the 2010 AHCA/NCAL Quality Symposium



Mark your calendars and make plans to attend the AHCA/NCAL Quality Symposium, February 9-10, in Baltimore, Maryland. Attendees can choose from

20 sessions that represent a wide spectrum of programming for beginners and advanced practitioners. This must-attend symposium is ideal for CEOs, Owners, Administrators, and long term care professionals in DD facilities who are dedicated to performance excellence. Thirteen CEUs are available for this event. Registration and comprehensive information will be available soon.

IO/NFP Conference Registration Now Available Online

Independent Owners and NFP DD providers, join your peers for two full days of information sessions, workshops, and opportunities to network with other long term care professionals at the AHCA/NCAL Independent Owner Leadership Conference, which will be held March 11-12, 2010 in Scottsdale, AZ.

Conference participants will receive valuable information with content designed exclusively for them, in an atmosphere of networking among fellow long term care professionals. To register online now click [here](#) or fax your form to 202-898-6302 today. Register by February 24, 2010 and save \$75 off the standard member rate!

Some of the sessions featured at this year's meeting are:

- Moving From an Institutional to a Household Model
- Cash Generating Tax Opportunities for the Owner Operator
- Health Information Technology

We hope to see you in Scottsdale!!

Flu Facts

Fill Out Flu Survey to Alert Us to Your Needs

Although there will not be enough seasonal influenza vaccine this year to meet all the needs of long term care, AHCA is experiencing success in directing the limited, remaining vaccine doses to long term care. Earlier this month, influenza vaccine manufacturer Novartis shipped 3,000 doses of Fluviron seasonal flu vaccine to long term care facilities via the distributor, FFF. As more doses become available from manufacturers, the CDC and the National Influenza Vaccine Summit are assisting AHCA in steering these new doses to long term care facilities. In addition, both Safeway and Walgreens corporate offices are working with AHCA to move some of their vaccine from their stores to long term care facilities. AHCA will continue to add partners to this effort of moving vaccine from the chain stores to long term care facilities.

If you are in need of seasonal vaccine for your residents and/or employees, please fill out the brief survey by clicking [here](#). The information will be forwarded to Walgreens or other stores who, in turn, will connect you to vaccine if they have any in the stores in your area. Questions? Click to contact [Janice Zalen](#).

H1N1 and Seasonal Influenza Update

Some Good Points: 1135 Waiver Requests, Employee Declination Forms, etc.

- 1) President Obama's declaration that the 2009 H1N1 influenza pandemic is a national emergency has allowed the Secretary of HHS to issue nationwide waivers under Section 1135 of the Social Security Act. As the waivers are not needed nationwide, CMS has developed a process to request an 1135 waiver for providers who need regulatory relief due to H1N1 influenza. Please view AHCA's this [H1N1 Influenza Update](#) for more information.
- 2) The Immunization Action Coalition recently developed a one-page form, [Declination of H1N1 Influenza Vaccination](#) for use in health care settings for employees who decline vaccination.
- 3) According to the Centers for Disease Control and Prevention (CDC,) it is not too late to begin antiviral treatment after 48 hours of the onset of flu symptoms. CDC [urges](#) health care providers to make sure that patients with indications have received, or are provided, pneumococcal vaccine.
- 4) We would like you to be aware that a [fraudulent email](#) is being circulated. The email claims to be sent from the CDC but it is in fact a fake email and contains false information.

For more information, please view AHCA's [H1N1 Influenza Resources Page](#).

Emergency Use Authorizations

Because the government is concerned about the potential of a shortage of antiviral medication for adults, the Food and Drug Administration (FDA) has issued Emergency Use Authorizations (EUA) that allow certain specific lots of Tamiflu capsules to be used beyond their expiration dates. It is important to understand that the EUA is very limited and facilities should not, at this time, purchase expired Tamiflu unless they are absolutely certain that it falls under the authorization. For additional information and a listing of the lot numbers that fall under the EUA, please view the FDA [website](#).

LTC Remains a Priority

According to CDC recommendations, long term care facility residents remain a priority for antiviral medication. Notably however, according to an article in the *New England Journal of Medicine*, [Older Age and a Reduced Likelihood of 2009 H1N1 Virus Infection](#), individuals born before 1957 may be at lower infection risk.

Many resources are available for dealing with all aspects of H1N1. The CDC recently updated its brochure, *Disposable Respirators: General Donning Instructions*. This brochure provides pictures and clear instructions in both [English](#) and [Spanish](#). There are also hundreds of documents relating to H1N1 on the [CDC website](#). For more information on H1N1, view AHCA's latest [update](#) and AHCA's [H1N1 resource and update page](#). Questions? Contact [Janice Zalen](#).

Occupational Safety

OSHA Issues H1N1 Enforcement Procedures

On November 20, the Occupational Safety and Health Administration (OSHA) released their [Enforcement Procedures](#) to ensure uniform inspections of healthcare facilities for worker protection against H1N1 influenza. The procedures are based on the CDC's earlier released [Interim Guidance on Infection Control Measures for 2009 H1N1 Influenza in Healthcare Settings](#).

The OSHA inspections will be initiated primarily in response to worker complaints and will be conducted in workplaces likely to have “high risk” to “very high risk” exposures to the 2009 H1N1 flu. As “high exposure risk” includes healthcare workers who work within 6 feet of patients with suspected or confirmed H1N1 flu, long term care facilities may be targeted for inspections. For specific information on inspection procedures, please visit AHCA’s Regulatory Update blog [here](#). Questions? Contact [Melissa Temkin](#).

OSHA Launches H1N1 Flu Website, Posts Fact Sheets for Employers and Workers

OSHA has launched a new [Workplace Safety and H1N1](#) website, which contains fact sheets explaining basic precautions for protecting workers against the H1N1 influenza A virus. The website includes separate guidance for health care workers, health care employers, and all other workers and employers. OSHA’s guidance for health care workers parallels the employer guidance, click [here](#) for a summary.

In the guidance for health care employers, OSHA states that a combination of workplace controls are needed to protect workers and help reduce the transmission of 2009 H1N1 virus, including encouraging sick workers to stay at home; emphasizing hand hygiene; and providing and ensuring the use of appropriate personal protective equipment (PPE.) Questions? Click to contact [Melissa Temkin](#).

GAO Report on Injury and Illness Recordkeeping

GAO recently released a study regarding whether employers' injury and illness recordkeeping is accurate and adequate, and what factors may affect the accuracy of these records. GAO analyzed OSHA's audits of employers' injury and illness records, interviewed inspectors who conducted the audits, surveyed occupational safety and health practitioners, and obtained the views of various stakeholders regarding factors that may affect the accuracy of the data.

GAO recommends that the Secretary of Labor direct OSHA to:

- 1) Require inspectors to interview workers during records audits, and substitute other workers when those initially selected are unavailable;
- 2) Minimize the time between the date injuries and illnesses are recorded by employers and the date they are audited;
- 3) Update the list of high hazard industries used to select worksites for records audits; and
- 4) Increase education and training to help employers better understand the recordkeeping requirements.

OSHA agreed with these recommendations.

To view the report in its entirety, go to <http://www.gao.gov/new.items/d1010.pdf>.

Quality Corner

Step Up For Quality Walkathon - Register Today!

The National Association of Health Care Assistant's (NAHCA) Academy of Certified Health Professionals (ACHP) announces the kick-off of its inaugural fundraising event, Stepping Up for Quality. Beginning February 1, 2010, this month long walkathon will record every hard working step taken by frontline caregivers across the country who register.

Registration is easy. Contact NAHCA by calling (800) 784-6049 to request a Walker packet. You may register as a single walker or with others from your facility. The packet will include a Walker pledge form, a NAHCA pedometer, a Step Record, a donation request letter to be personalized by the walker, and promotional flyers for you to proudly display in your facility. Any community or facility registering a team of walkers will

receive two “Stepping Up For Quality” team leader t-shirts. If you have additional questions please contact [Lesley Collins](#). [Register](#) today!

Resources

Cyber Discounts All Month Long From AHCA/ NCAL

Happy Holidays from AHCA/NCAL! Our valued customers can enjoy a 10 percent savings the entire month of December when you shop the AHCA/NCAL [bookstore online](#). Use Promo Code: DEC09 when placing your order online. We appreciate your support in 2009 and look forward to providing valuable training and staff development resources in the New Year.

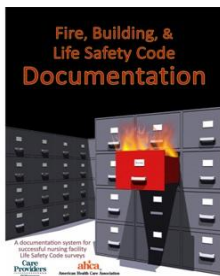


Updated Kaiser Database on Medicaid Benefits

The Kaiser Family Foundation’s Commission on Medicaid and the Uninsured (KCMU) has updated its [online database of Medicaid benefits](#) to include data from October 2008, the most recent available. The comprehensive database houses information on Medicaid acute and long-term care benefits in the fifty states, the District of Columbia, and the U.S. territories. It includes data about 46 services, including which benefits are covered, the populations eligible to receive various benefits, and the limitations, co-payments and payment rules that apply to the benefits for each state or jurisdiction. The database is searchable by Medicaid benefit as well as by state, and includes information from 2003, 2004, 2006, and 2008. Specific benefits can be compared across states and in regional groupings of states. Additionally, search results can be printed, emailed, or saved.

New Life Safety Code Resource Now Available

The following new publication is now available from AHCA: [Fire, Building, and Life Safety Code Documentation](#). This guide is intended to help administrators and maintenance directors develop a system to organize all the documents necessary to comply with various Life Safety Code requirements. It provides an organizational system, sample policies and procedures, and forms to help a facility become organized and compliant. A companion CD includes forms you can customize. Developed in partnership with Care Providers of Minnesota. The publication is product #8127 and is \$45 for AHCA members, \$75 for non-members. Call 800-321-0343 or go to www.ahcapublications.org to order your copy now!



HIPAA

HHS Strengthens HIPAA Enforcement Rule to Conform with HITECH Act

In October, HHS issued an interim final rule to strengthen the enforcement of the rules promulgated under the *Health Insurance Portability and Accountability Act (HIPAA)*. The new interim final rule amends the current enforcement regulations to reflect the amendments to HIPAA under the *Health Information Technology for Economic and Clinical Health (HITECH) Act*, and is effective February 18, 2009. The new rule substantially increases the potential penalties for HIPAA violations by covered entities, including long term care providers.

Prior to the HITECH Act, the HHS Secretary could not impose a penalty of more than \$100 for each violation or \$25,000 for all identical violations of the same provisions. A covered entity also could bar the Secretary's imposition of a civil money penalty (CMP) merely by showing it did not know that it had violated the HIPAA rules. Subsequently, the HITECH Act established tiered ranges of increasing minimum penalty amounts, with a maximum penalty of \$1.5 million for all violations of an identical provision. Further, under the HITECH Act a covered entity can no longer bar the imposition of a CMP for an unknown violation unless it corrects the violations within 30 days of discovery. The new rule incorporates these HITECH enforcement provisions into the new interim final rule. Questions? Click to contact [Dianne De La Mare](#).

OIG Update

OIG Releases Updated Exclusions List - Be Sure To Check It Out!

The Office of the Inspector General (OIG) posts a monthly update to its List of Excluded Individuals and Entities (LEIE,) identifying individuals and entities excluded from participation in any Federal health care program. The updated LEIE contains a list of all exclusions currently in effect. Long term care providers should routinely check the OIG's LEIE as Federal law prohibits providers from employing or contracting with any individual or entity who is excluded from participation in Federal health care programs (e.g., Medicare/Medicaid) for the provision of items or services for which payment may be made by those programs. A provider who employs or contracts with an excluded individual or entity in violation of the law is subject to the imposition of a civil monetary penalty by the OIG. Instructions for accessing either format can be found on the OIG website. Other monthly supplements can be found here. Questions? Listen to the OIG explain the LEIE at the archived Compliance Program Webinar here.