November 28, 2017 Edition

Feature Focus

Each edition of the IHCA Regulatory Beat features focus articles on specific regulatory topics. If you have a topic you’d like to see covered here, please let us know!

New RoPs and New Survey Process to Start Today, Tuesday, November 28, 2017
Letter from Mark Parkinson

Effective November 28, 2017, CMS will implement the new RoPs, new Interpretive Guidelines, new F-Tags and new Survey Process. CMS just released Survey and Certification letters 18-04 and 18-05 that further explain how the new process will be implemented.

The first memo, titled Temporary Enforcement Delays for Certain Phase 2 F-Tags and Changes to Nursing Home Compare, is available online here. The second memo, titled Preparation for Launch of New Long-Term Care Survey Process (LTCSP), is available online here.

In summary, the first memo states that CMS is proceeding with implementing Phase 2 of the Requirements of Participation with the following changes:

- **Temporary moratorium on imposing certain enforcement remedies for specific Phase 2 requirements**: CMS will provide an 18-month moratorium on the use of certain enforcement remedies (CMP, DPNA and discretionary termination) for specific Phase 2 requirements (see below). However, CMS may use directed plans of correction or directed inservices for these specific Phase 2 requirements. This 18-month period will be used to educate facilities about specific new Phase 2 standards.

- **Freeze Health Inspection Star Ratings**: Following the implementation of the new survey process on November 28, 2017, CMS will hold constant the current health inspection star ratings on the Nursing Home Compare website for any surveys occurring between November 28, 2017 and November 27, 2018. There is no change to the staffing or quality measure component and the overall rating can still change based on your staffing and quality measure component.

- **Availability of Survey Findings**: The survey findings of facilities surveyed under the new survey process will be published on Nursing Home Compare, but will not be incorporated into calculations for the Five-Star Quality Rating System for 12 months. CMS will add indicators to Nursing Home Compare that summarize survey findings.

- **Methodological Changes and Changes in Nursing Home Compare**: In early 2018, Nursing Home Compare health inspection star ratings will be based on the two most recent cycles of findings for standard health inspection surveys and the two most recent years of complaint inspection.
Phase 2 Requirements Impacted by the Temporary Enforcement Moratorium

CMS has provided the following list of F-Tags included in the 18-month moratorium on use of CMPs:

- **F655** (Baseline Care Plan); §483.21(a)(1)-(a)(3)
- **F740** (Behavioral Health Services); §483.40F741 (Sufficient/Competent Direct Care/Access Staff-Behavioral Health); §483.40(a)(1)-(a)(2)
- **F758** (Psychotropic Medications) related to PRN Limitations §483.45(e)(3)-(e)(5)
- **F838** (Facility Assessment); §483.70(e)
- **F881** (Antibiotic Stewardship Program); §483.80(a)(3)
- **F865** (QAPI Program and Plan) related to the development of the QAPI Plan; §483.75(a)(2) and,
- **F926** (Smoking Policies). §483.90(i)(5)

Five-Star Rating System Changes

Five-Star Rating changes will only be frozen for any surveys or IDRs that are initiated after November 28, 2017. Any survey or IDR that was initiated before November 28, 2017 will continue to impact facility Five-Star Ratings. Survey results, including the number, type and severity of deficiencies, will continue to be posted on Nursing Home Compare. The memo also states that in early 2018, CMS intends to recalculate all Five-Star Ratings, excluding the third oldest survey from every rating. After that time, only the past two surveys will be included in the rating system.

CMS recommends that providers impacted by this freeze that are involved with ACOs or managed care provide a copy of this memo to the ACO or hospital.

New Survey Process

The second memo, *Preparation for Launch of New Long-Term Care Survey Process*, confirms that CMS will begin the new survey process on November 28, 2017. The memo provides guidance to state surveyors as they implement the new survey.

As facilities are preparing for the new survey process to begin this week, AHCA has developed a free three-part series on ahcancaLED to understand what an owner or CEO needs to know about the new regulations that go into effect on November 28. Presented by Dr. David Gifford, AHCA Senior Vice President of Quality & Regulatory Affairs, and designed specifically for owners and CEOs, this new series will provide an overview of what to expect.

- Part 1: Overview and key themes
- Part 2: Overview of the new survey process
- Part 3: Key questions to ask your management team to make sure your organization is ready

To access this exclusive member benefit, visit ahcancaLED and register using your AHCA username and password. If you need additional assistance or have any questions, please contact the ahcancaLED team at educate@ahca.org.

Conclusion

AHCA has had ongoing discussions with CMS officials and Administrator Seema Verma about the content and implementation of the Phase 2 Requirements of Participation and the new survey process. We know that there are many concerns with the new requirements, even with the changes we have successfully fought for up to this point. CMS has indicated a willingness to continue to work with us as the requirements go into effect. AHCA will continue our efforts to find solutions that help you provide quality care.
Update on Certain Corrections to Appendix PP and Survey Tasks/Pathways

CMS recently shared that they are making a few technical changes to the interpretive guidance before issuing a final version of Appendix PP. We anticipate CMS will release a final version of Appendix PP by or around November 28, 2017. In addition, CMS has made some of the related changes to the critical element pathways and posted the updates with a date of November 8 on their website here. Below is a summary of the changes CMS has told us they have made or will be making to the guidance and pathways. Note that several other pathways in the zipped file at the link above appear to also have a new date of 11-8-17, and we are seeking additional information about any further changes to those pathways.

- **Administering Crushed Oral Medications**
  - AHCA, along with ASCP and other stakeholders, provided feedback to CMS regarding the guidelines for crushing and combining oral medications into food. In response to those concerns, CMS is revising the interpretive guidance to convey that best practice would be to separately crush and administer each medication with food to address concerns with physical and chemical incompatibility of crushed medications and ensure complete dosaging of each medication. However, they will add new guidance that separating crushed medications may not be appropriate for all residents and should not be counted as a medication error unless there are instructions not to crush the medication(s). Facilities should use a person-centered, individualized approach to administering all medications. If a surveyor identifies concerns related to crushing and combining oral medications, the surveyor should evaluate whether facility staff have worked with the resident/representative and appropriate clinicians (e.g., the consultant pharmacist, attending physician, medical director) to determine the most appropriate method for administering medications which considers each resident's safety, needs, medication schedule, preferences, and functional ability. Interpretive guidance related to crushed medications administered via feeding tube will remain unchanged.
  - CMS has revised the facility task/pathway for Medication Administration Observation, CMS 20056, to reflect this change.

- **SNF Beneficiary Protection Notification Review**
  - CMS is revising the form and notices that must be provided to residents when their Part A stay is ending or they no longer meet the skilled care requirement when the resident has not used all Medicare benefit days for that episode and eliminating the five alternative denial letters.
  - CMS has updated the SNF Beneficiary Notice task/pathway to reflect this change.

- **F686 - Tissue tolerance tests**
  - CMS determined that guidance in F686 for pressure ulcers related to tissue tolerance tests was not a current standard of practice, so they are going to remove the references in the guidance requiring a tissue tolerance test.

- **F838 - Facility assessment (FA)**
  - The surveyor guidance (§483.70(e)) states that "the assessment must include or address the facility's resources which include but are not limited to a facility's operating budget..." CMS is correcting this guidance to remove the inappropriate wording that a facility must include their operating budget in the FA, as that is not part of the FA regulation. They have stated they will keep the guidance that "It should serve as a record for staff and management to understand the reasoning for decisions made regarding staffing and other resources, and may include the operating budget necessary to carry out facility functions." The key word is *may*, as they do not require the facility to include the operating budget as part of their assessment.

As we identify additional technical corrections and other broad concerns about the guidance, we will continue to provide that information to CMS and encourage you to do the same by sharing the information with AHCA and/or emailing CMS directly at NHSurveyDevelopment@cms.hhs.gov. CMS responds in writing to questions sent to that inbox, and it is very helpful to have the written record of corrections and clarifications CMS provides.
We recently reported to CMS another error that must be corrected in Appendix PP. As you may recall, the proposed rule on the reformed RoPs indicated that the bathroom requirement at 483.90(f) would apply to newly certified facilities as well as to construction and reconstruction approved after November 28, 2016, but the word reconstruction was eliminated in the final rule for the bathroom requirement. However, the advance copy of Appendix PP includes the word "reconstruction" and goes on to define the word "reconstruction" in this section (as it does under 483.90(e) for the bedrooms). We have requested this correction in the final version of Appendix PP as well.

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**Trending Statistics**

*Each issue of Regulatory Beat features an interesting statistic or trend in the long term care regulatory arena.*

**American Nurses Association Makes New Recommendation That All Nurses Should Be Immunized Against Vaccine-Preventable Diseases**

The American Nurses Association (ANA) is calling for all individuals, including registered nurses (RNs), to be immunized against vaccine-preventable diseases, with the only exemptions being for medical or religious reasons.

**ANA’s new position on immunization** aligns with recommendations from the Centers for Disease Control and Prevention (CDC) and the Advisory Committee on Immunization Practices (ACIP), a CDC panel of medical and public health experts that advises vaccine use. ANA’s re-examination of its position was prompted partly by outbreaks of measles cases this year that affected unvaccinated adults and children.

“ANA’s new position aligns registered nurses with the best current evidence on immunization safety and preventing diseases such as measles,” said ANA President Pamela F. Cipriano, PhD, RN, NEA-BC, FAAN. “A critical component of a nurse’s job is to educate patients and their family members about the effectiveness of immunization as a safe method of disease prevention to protect not only individuals, but also the public health.”

During the first seven months of 2015, the CDC said 183 people from more than 20 states were reported to have measles, with five outbreaks resulting in the majority of those cases. In 2000, the United States had declared that measles was eliminated from the country as a result of an effective measles vaccine and a strong vaccination program for children.

Health care personnel who request exemption for religious beliefs or medical contraindications – a condition or factor that serves as a reason to withhold an immunization due to the harm it would cause – should provide documentation from “the appropriate authority” supporting the request. Individuals who are granted exemption “may be required to adopt measures or practices in the workplace to reduce the chance of disease transmission” to patients and others, the new policy says.

ANA’s position on immunization for health care personnel aligns with the newly revised Code of Ethics for Nurses with Interpretive Statements, which says RNs have an ethical responsibility to “model the same health maintenance and health promotion measures that they teach and research,” including immunization.

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The American Nurses Association (ANA) is the only full-service professional organization representing the interests of the nation’s 3.4 million registered nurses through its constituent and state nurses associations and its organizational affiliates. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the rights of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.
1) The following federal Survey and Certification (S&C) Letters were released since the last issue of Regulatory Beat:

- **S&C 18-03 – HHA** – Home Health Agency (HHA) Subunits. New HHA Conditions of Participation, which will be effective January 13, 2018, no longer contain a definition for HHA Subunits. The Subunits existing at the time of the effective date of the regulations will become freestanding HHAs unless they notify the State Survey Agency (SA) and the Medicare Administrative Contractor (MAC) that they wish to become a Branch of the Parent.

- **S&C 18-04 – NH** – Temporary Enforcement Delays for Certain Phase 2 F-Tags and Changes to Nursing Home Compare. Temporary moratorium on imposing certain enforcement remedies for specific Phase 2 requirements: CMS will provide an 18 month moratorium on the imposition of certain enforcement remedies for specific Phase 2 requirements. This 18 month period will be used to educate facilities about specific new Phase 2 standards. *Freeze Health Inspection Star Ratings*: Following the implementation of the new LTC survey process on November 28, 2017, CMS will hold constant the current health inspection star ratings on the Nursing Home Compare (NHC) website for any surveys occurring between November 28, 2017 and November 27, 2018. *Availability of Survey Findings*: The survey findings of facilities surveyed under the new LTC survey process will be published on NHC, but will not be incorporated into calculations for the Five-Star Quality Rating System for 12 months. CMS will add indicators to NHC that summarize survey findings. *Methodological Changes and Changes in Nursing Home Compare*: In early 2018, NHC health inspection star ratings will be based on the two most recent cycles of findings for standard health inspection surveys and the two most recent years of complaint inspections.

- **S&C 18-05 – NH** – Preparation for Launch of New Long-Term Care Survey Process. The new computer-based LTCSP will be effective November 28, 2017. Appendix P will no longer be available: Beginning with surveys occurring on November 28, 2017, Appendix P will no longer be accessible. The LTCSP procedure guide will replace Appendix P as the procedural and technical guide for conducting LTC standard surveys. Chapter 7 of the State Operations Manual (SOM) will be revised to include survey policy. *Survey Resources*: A link to resources surveyors will need to conduct LTC surveys will be made available on November 17, 2017. Surveyors must download items included on this link to their survey laptops by November 28, 2017.

2) Federal HHS/CMS released the following notices/announcements:

- **Phase Four** of the National Action Plan to Prevent Health Care-Associated Infections: Road Map to Elimination: Coordination Among Federal Partners to Leverage HAI Prevention and Antibiotic Stewardship. The Office of Disease Prevention and Health Promotion and the Federal Steering Committee for the Prevention of HAIs have developed a new phase of the National Action Plan to Prevent Health Care-Associated Infections: Road Map to Elimination (HAI Action Plan). The first three phases of the HAI Action Plan meaningfully enhanced coordination of federal efforts to address HAIs by establishing a structure to regularly share best practices, resources, and lessons learned among federal partners.

- **CMS Announces a New User-Centered Resource to Help Improve Alignment**; The CMS Measures Inventory Tool (CMIT). CMS is actively working to move the needle on improving quality in health care without additional burden to those providers on the frontlines. CMS recently launched a new initiative, ‘Meaningful Measures,’ which will streamline current measure sets – so providers can focus on the measures that are most impactful – and will move from process measures to outcome measures where possible. A great deal of attention has also been focused on alignment of quality measures within CMS and with commercial payers, and we are committed to working towards alignment of these measures to ensure delivery of high quality care to all Americans while minimizing burden on providers. CMIT is an innovative approach that will help to promote the goal of increased alignment across programs and with other payers. We believe it is an easy to use valuable resource to various
stakeholders, including commercial payers, clinicians, patients and measure developers. For more information about CMIT and to access the tool, please visit the [CMS.gov](http://CMS.gov) website.

- **Hospice Compare Updates**
  - Updated Guidance on How to Update Demographic Data Within ASPEN. The demographic data displayed on Hospice Compare is generated from the information stored in the Automated Survey Processing Environment (ASPen) system. Guidance on how to update a provider’s demographic information such as address, telephone number and ownership with their state ASPEN coordinator is now available. View the [How to Update Demographic Data 11.14.17](http://Hospice Quality Public Reporting) webpage for further information as well as more details on the cutoff dates for changes to demographic information in the ASPEN system. Please note: When requesting updates to your demographic data, it is important to ask for updates to your data within the ASPEN system, and not your data on the Hospice Compare site.
  
  - Hospice Compare Refresh Delayed. The Hospice Compare Refresh scheduled for November 21, 2017 has been delayed. CMS will inform the provider community when the new refresh date is determined. Please note that this refresh delay will not impact the HIS Freeze date of November 15, 2017 and HIS Provider Preview Reports that will be available on December 1, 2017.

- **CMS Pulls Proposed Rule on Same-Sex Marriage Recognition for LTC Facilities.** CMS withdraws a proposed rule that [was published](http://Federal Register) in the **Federal Register** on December 12, 2014. This proposed rule would revise the applicable conditions of participation for certain providers, conditions for coverage for certain suppliers and requirements for long term care facilities, to ensure that the requirements are consistent with the [Supreme Court decision in United States v. Windsor](https://www.scribd.com/document/243144925/United-States-v-Windsor) ([570 U.S.12, 133 S. Ct. 2675 (2013)]) and HHS policy. Specifically, it proposed to revise certain definitions and patient's rights provisions that currently defer to state law, in order to ensure that same-sex spouses are recognized and afforded equal rights in certain Medicare and Medicaid-participating facilities.

- **New Medicare Card: Provider Ombudsman Announced.** The Provider Ombudsman for the New Medicare Card serves as a CMS resource for the provider community. The Ombudsman will ensure that CMS hears and understands any implementation problems experienced by clinicians, hospitals, suppliers and other providers. Dr. Eugene Freund will be serving in this position. He will also communicate about the New Medicare Card to providers and collaborate with CMS components to develop solutions to any implementation problems that arise. To reach the Ombudsman, contact: [NMCProviderQuestions@cms.hhs.gov](mailto:NMCProviderQuestions@cms.hhs.gov). The Medicare Beneficiary Ombudsman and CMS staff will address inquiries from Medicare beneficiaries and their representatives through existing inquiry processes. Visit [Medicare.gov](http://Medicare.gov) for information on how the Medicare Beneficiary Ombudsman can help you.

- **SNF QRP Help Desk Q+A Document for Second Quarter of 2017 Now Available.** CMS has a new Question and Answer (Q+A) document is now available in the “Downloads” section of the [SNF Quality Reporting Program FAQs](http://SNF Quality Reporting Program FAQs) webpage. The Q+A document reflects frequently asked questions that were received by the SNF QRP Help Desk during the second quarter (April - June) of 2017.

- **New Medicare Card: New Webpage Information.** View new content on the [Provider](http://Provider) webpage to be ready for the transition to the new Medicare card beginning April 1. We identify new and updated content as *New*. Learn more:
  - Prepare for April 2018 – [Sign up](http://Sign up) for your Medicare Administrative Contractor’s portal now
  - Help your patients learn about the new cards – [Order](http://Order) or print the new [poster](http://poster) (#12009-P) and [tear-off sheets](http://tear-off sheets) (#12006)
  - How we are aligning eligibility search criteria among CMS systems
  - Identify Railroad Retirement Board (RRB) Medicare patients – [view the RRB card](http://view the RRB card)
• **Hospice Quality Reporting Program: Quarterly Update.** The Hospice Quality Reporting Program (HQRP) Quarterly Update is available for the third quarter (July through September) of 2017. This document includes frequently asked questions received by the Hospice Quality Help Desk, as well as HQRP updates and events from the third quarter and upcoming events in the fourth quarter. Visit the HQRP Requirements and Best Practices webpage for more information.

• **2017 Medicare FFS Improper Payment Rate Below 10 Percent for First Time Since 2013.** CMS’ new leadership is re-examining existing corrective actions and exploring new and innovative approaches to reducing improper payments, while minimizing burden for its partners. Due to the successes of actions we put into place to reduce improper payments, the Medicare Fee-For-Service (FFS) improper payment rate decreased from 11.0 percent in 2016 to 9.5 percent in 2017, representing a $4.9 billion decrease in estimated improper payments. The 2017 Medicare FFS estimated improper payment rate represents claims incorrectly paid between July 1, 2015, and June 30, 2016. This is the first time since 2013 that the Medicare FFS improper payment rate is below the 10 percent threshold for compliance established in the Improper Payments Elimination and Recovery Act of 2010. See the full text of this excerpted CMS Blog (issued November 15).

• **OIG Video: Reporting Fraud to the Office of the Inspector General — Reminder.** Do you suspect someone is submitting fraudulent claims to Medicare? Watch a brief video on How to Report Fraud to the OIG and learn how you can report these activities anonymously to The Office of the Inspector General (OIG). Help protect the Medicare Program and your patients. This video is part of the OIG Health Care Fraud Prevention and Enforcement Action Team (HEAT) Provider Compliance Training initiative to prevent fraud, waste and abuse. The video originally aired in 2011, but the information is current.

• **Medicare Diabetes Prevention Program Model Expansion Call — Tuesday, December 5, 12:30 - 2 pm CST.** Register for Medicare Learning Network events. The CY 2018 Medicare Physician Fee Schedule final rule includes the expansion of the Medicare Diabetes Prevention Program (MDPP) Model starting in 2018. During this call, CMS experts provide a high-level overview of the finalized policies. A question and answer session follows the presentation. The MDPP expanded model is a structured intervention with the goal of preventing progression to type 2 diabetes in individuals with an indication of pre-diabetes. Participants should review the final rule prior to the call.

• **SNF QRP: Assessment-Based Measures Confidential Feedback Report Webinar — Wednesday, December 6, 1 - 2 pm CST.** Register for this webinar. CMS experts provide information on the Confidential Feedback Reports for the assessment-based measures adopted for the Skilled Nursing Facility (SNF) Quality Reporting Program (QRP). These reports will be available in your Certification and Survey Provider Enhanced Reporting (CASPER) folder in late November. For more information, visit the SNF QRP Training webpage.

• **IMPACT Act Special Open Door Forum — Tuesday, December 12, 1 - 2 pm CST.** This Special Open Door Forum (SODF) provides information and solicits feedback on the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act):
  - Update on RAND’s national field test launch
  - Planned stakeholder engagement activities for 2018
  - Ways to remain engaged and informed during the upcoming year

View the announcement for more information.

• **National Partnership to Improve Dementia Care and QAPI Call — Thursday, December 14 from 12:30 to 2 pm CST.** Register for Medicare Learning Network events. During this call, learn how to work with physicians to ensure compliance with the new psychotropic medication prescribing requirements for long-term care facilities. Also, find out how nursing homes are putting the new Quality Assurance Performance Improvement (QAPI) requirements into practice. Additionally, CMS experts share updates on the progress of the National Partnership to Improve Dementia Care in Nursing Homes and QAPI. A question and answer session follows the presentations.
• **Medicare Fraud & Abuse Poster — New.** A new Medicare Fraud & Abuse Poster is available. Learn about actions that are considered fraud or abuse, and find out about Medicare Learning Network materials on this topic.

• **Medicare Fraud & Abuse: Prevention, Detection, and Reporting Booklet — Revised.** A revised Medicare Fraud & Abuse: Prevention, Detection, and Reporting Booklet is available. Learn about:
  - Fraud and abuse in healthcare
  - Laws governing fraud and abuse activities
  - Government partnerships fighting fraud and abuse
  - Where to report suspected fraud and abuse

• **Medicare and Medicaid Basics Booklet — Revised.** A revised Medicare and Medicaid Basics Booklet is available. Learn about:
  - Dual eligible beneficiaries
  - Covered services
  - Other common types of coverage

3) The federal Agency for Healthcare Research and Quality (AHRQ) reported on:

• **Primer Summarizes Benefits, Safety Concerns Related to Electronic Health Records.** A new AHRQ primer summarizes the positive effects that electronic health records (EHRs) can have on patient safety as well as the unintended patient safety concerns they can create. The research review found EHRs have decreased medication errors, improved adherence to guidelines, and improved attitudes toward patient safety as well as job satisfaction among physicians and nurses. However, the review also identified new safety concerns related to data entry. For instance, users could be distracted when entering information into parts of the application that are confusing, or they may not provide complete documentation. In addition, security measures may limit opportunities for nurses or pharmacists to prevent or correct prescription errors. Access the full report, Patient Safety Primer: Electronic Health Records.

• **AHRQ Releases TeamSTEPPS 2.0 to Improve Patient Safety in Long-Term Care.** AHRQ has updated its TeamSTEPPS® training for long term care facilities. Now called TeamSTEPPS 2.0 for Long-Term Care, the curriculum updates have improved the usability and flow of materials, added training scenarios to reflect health care issues in long term care settings and added a new measurement module to help teams track progress. The revisions also bring this version of the TeamSTEPPS “train-the-trainer” curriculum in line with changes made to TeamSTEPPS 2.0 for hospital-based teams. Users may download and/or print all the free TeamSTEPPS 2.0 for Long-Term Care materials for training in any post-acute or long term care facility.

4) The federal Centers for Disease Control and Prevention (CDC) reported on:

• **Weekly U.S. Influenza Surveillance Report** ([click here](#)).

• **What You Should Know and Do this Flu Season If You Are 65 Years and Older.** It has been recognized for many years that people 65 years and older are at greater risk of serious complications from the flu compared with young, healthy adults because human immune defenses become weaker with age. While flu seasons can vary in severity, during most seasons, people 65 years and older bear the greatest burden of severe flu disease. In recent years, for example, it’s estimated that between 71 percent and 85 percent of seasonal flu-related deaths have occurred in people 65 years and older and between 54 percent and 70 percent of seasonal flu-related hospitalizations have occurred among people in that age group. So influenza is often quite serious for people 65 and older.

5) The federal U.S. Office of the Inspector General (OIG) reported on:

• **Use of Funds by Medicaid Managed Care Organizations.** Managed care is a health care delivery system organized to manage cost, utilization and quality. In 2015, Federal Medicaid managed care payments were
approximately $161.8 billion, which was more than 40 percent of the $349.8 billion in total federal expenditures for Medicaid. States continue to expand their use of managed care. To deliver services to Medicaid managed care enrollees, states contract with managed care organizations (MCOs) and make monthly payments, called a capitation payment, to those plans to provide enrollees with Medicaid-covered services. Appropriately set capitation rates help to ensure that adequate payments are made to provide services to beneficiaries. We will examine how Medicaid funds received by MCOs are used to provide services to enrollees.

- **Trends in Nursing Home Complaints.** The nursing home complaint process is a critical safeguard to protect vulnerable residents of nursing homes. CMS relies on the states’ respective survey agencies to respond to health and safety concerns raised by residents, their families and nursing home staff. State agencies must investigate the most serious complaints onsite within certain time frames. However, a *July 2006 Office of the Inspector General report* found that state agencies did not conduct onsite investigations within the required time frames for some complaints. Our September 2017 data brief "A Few States Fell Short In Timely Investigation Of The Most Serious Nursing Home Complaints: 2011-2015" examines the extent to which states met required time frames for investigating the most serious nursing home complaints between 2011 and 2015. To complement this data brief, the interactive map below displays details on nursing home complaint trends between 2011 and 2015 for each state, including the number of complaints received and the number of the most serious complaints that a state investigated late. View a text-based version of this data.

6) The HHS Office of the Assistant Secretary for Preparedness and Response released the ASPR TRACIE November edition of The Express (click here). This issue of The Express includes information on our new resource pages, new and updated tools for health care coalitions (HCC), information on recent and upcoming ASPR TRACIE webinars and events, reminders regarding the CMS Emergency Preparedness Rule, and domain updates.

7) The U.S. Department of Labor’s OSHA Extends Compliance Date for Electronically Submitting Injury, Illness Reports to December 15, 2017. To allow affected employers additional time to become familiar with a new electronic reporting system launched on August 1, 2017, the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) has extended the date by which employers must electronically report injury and illness data through the Injury Tracking Application (ITA) to December 15, 2017.

8) The Illinois Department of Healthcare and Family Services (HFS) released the following notices since the last issue of Regulatory Beat:

- In case you missed it, HFS recently posted a series of notices to help providers better understand HealthChoice Illinois, the new Medicaid managed care program. If you did not have the opportunity to read it, please see:
  - Succeeding in the New Managed Care Program Series (#1): What is my relationship with health plans that weren’t awarded a contract for the new program?
  - Succeeding in the New Managed Care Program Series (#2): Four key ways the new managed care will mean less work for providers
  - Succeeding in the New Managed Care Program Series (#3): Simplified credentialing: Cutting back on provider overhead costs
  - Succeeding in the New Managed Care Program Series (#4): How HFS and the health plans will communicate transition details to clients
  - Succeeding in the New Managed Care Program Series (#5): How you can help your patients understand what they need to know about this transition

9) The Illinois Department of Public Health (IDPH) reports:

- The 2017 IDPH Town Hall Meeting Schedule. Letters will be sent to the individual facilities in the regions prior to each meeting. Instructions for responding (will be included in the letter) or you can RSVP (at least three days before the scheduled meeting) to Lisa Reynolds via email at: lisa.reynolds@illinois.gov. Please include the date and location of the meeting in the Subject Line.
10) The American Health Care Association (AHCA) and The Illinois Health Care Association recently reported on:

- **What a CEO Needs to Know About the New RoP Regulations** ([click here](#))—Recent presentation by David Gifford MD, MPH.

- **Reminder: Complete AHCA Survey by December 8, 2017.** AHCA is asking members to complete a survey for a nursing facility margin study we are conducting to strengthen our advocacy efforts. Click [here](#) to visit the webpage and view a video on how to complete the survey. If you haven’t already, please complete the survey no later than December 8, 2017. All information provided in this web-based survey will be confidential and only blinded summary level data will be shared publicly.

- **Announcing the 2018 National Skilled Nursing Care Week Theme.** AHCA is thrilled to announce, "Celebrating Life's Stories" as the 2018 theme for National Skilled Nursing Care Week (NSNCW), formerly known as National Nursing Home Week. The theme, "Celebrating Life's Stories," serves as a tribute to life's most significant events, relationships and experiences that shape the unique perspectives of residents, families, staff, and those in the surrounding communities. In light of this announcement, AHCA has added several resources to our [website](#) to promote the new theme. The NSNCW [Facebook page](#) has also been updated to reflect this information.

- The archived recording of **Emergency Preparedness Requirements – Part IV** is now ready for you to view at your convenience.
  2. Once the page opens, click on the “View Archived Recording” button on the right hand side of the page. The presentation will open in a new window for you to view and hear the program.
  3. Click on the Handout tab to download your copy of the handouts and other available materials.


11) The latest Telligen events/announcements can be found at [https://www.telligenqinqio.com/](https://www.telligenqinqio.com/).

12) UC San Francisco reports that [Most Nursing Home Residents Eligible for Palliative Care, But Do Not Receive Any](https://www.ucsf.edu/). Nearly 70 percent of nursing home residents are eligible for palliative care, but do not receive any corresponding support to provide relief from their symptoms and improve their quality of life, according to a study by researchers at UC San Francisco.

13) MedlinePlus reports that [Top Anti-Opioid Meds Are Equally Safe, Effective](https://www.medicinenet.com/). The top two medications used to treat opioid addiction appear equally safe and effective, a new study finds. With the United States in the midst of an unprecedented opioid crisis, researchers conducted a head-to-head trial of two leading addiction treatments -- naltrexone (Vivitrol) and buprenorphine-naloxone (Suboxone). "The newer drug, naltrexone, was as effective in keeping patients off heroin, preventing relapse and overdose, as buprenorphine,” said lead researcher Dr. Joshua Lee. These results should reassure patients and health care providers that naltrexone is safe to use to break the cycle of addiction, said Lee, an associate professor at New York University School of Medicine's departments of medicine and population health.

14) PubMed reports on [Ratings Game: An Analysis of Nursing Home Compare and Yelp Ratings](https://www.ncbi.nlm.nih.gov/). Two strategies for rating the quality of nursing homes (NHs) in the USA are exemplified by the Nursing Home Compare (NHC) website, launched by the federal CMS in 1998, and Yelp.com, an online consumer review site that has grown in popularity since its founding in 2004. Both sites feature a 5-star rating system. While much is known about NHC ratings, little is known about NH Yelp ratings. This study examines Yelp ratings for NHs in California and compares these ratings with NHC ratings. Understanding how these ratings relate can inform efforts to empower consumers and enhance NH decision-making.
15) Medical News Today reports on Dementia Breakthrough? Brain-Training Game ‘Significantly Reduces Risk’. A recent study has been hailed as a “breakthrough” in dementia prevention, after finding that a brain-training exercise can lower the risk of the condition by more than a quarter.

16) The National Institutes of Health (NIH) reports that Separating Side Effects Could Hold Key for Safer Opioids. Opioid pain relievers can be extremely effective in relieving pain, but can carry a high risk of addiction and ultimately overdose when breathing is suppressed and stops. Scientists have discovered a way to separate these two effects — pain relief and breathing — opening a window of opportunity to make effective pain medications without the risk of respiratory failure. The research, published today in Cell, was funded by the National Institute on Drug Abuse (NIDA), part of the National Institutes of Health.

17) Medscape reports, Threefold Increased Stroke Risk Tied to Certain Antipsychotics. Older adults taking atypical antipsychotics that induce rapid metabolic changes such as weight gain and that alter lipid profiles are much more likely to suffer from major cardiovascular events, particularly stroke, new research shows.

18) The Belleville News-Democrat reports, New Illinois Initiative Helps Find People With Dementia. Illinois has launched an initiative that aims to inform police officers and the public about how to spot and assist elderly people suffering from dementia. The state introduced the Silver Search Awareness Campaign on Nov. 1, the Southern Illinoisan reported. Under the campaign, police recruits and officers statewide will be trained on warning signs, interacting with those affected by dementia and the criteria for initiating a Silver Search — a special category of missing persons focused on senior citizens.

19) HealthDay News reports that Decline in Heart’s Pumping Ability May Reduce Blood Flow to Brain’s Memory Center. According to HealthDay, research suggests that "a decline in the pumping ability of an older person’s heart can lower blood flow to their brain’s memory center." The study, which included more than 300 participants, was published in Neurology. The study used MRI.

20) The Wall Street Journal reports, Older Americans Fearful, Embarrassed About Discussing Falls Despite Looming Threat of Injury. The Wall Street Journal reported Americans aged 65 and older face the danger of falling, yet often do not disclose incidents of falls to family or health care professionals due to embarrassment or fear of losing independence. According to the CDC, nearly half of older Americans do not tell anyone about instances of falls, which the piece said can lead to patients becoming more fearful and sedentary, which in turn increases their risks of additional injuries. The CDC also found that falls are the leading cause of injury and death for older Americans. The article quoted elder care and health care professionals who recommended strategies for seniors and medical providers to approach discussions on falls as well as ways to prevent them.

21) The Minneapolis Star Tribune reports that Abuse Among Nursing Home Residents Becoming a Growing Concern. The Minneapolis Star Tribune reports on cases in which nursing home residents "cause immense pain and distress" when they become abusive toward other residents and staff. The piece says, "Altercations between residents have grown more frequent and more serious in recent years as senior care facilities have allowed more seniors with psychiatric problems to live alongside frail elderly residents — often in assisted-living facilities that are lightly regulated by the state." Despite this growing problem, the piece says, it "is rarely addressed, and state and federal regulators have taken few steps to prevent it." Rachel Reeves, a spokeswoman for the National Center for Assisted Living, said in a statement, "Assisted living communities are committed to ensuring the safety and well-being of residents. As with any setting, bringing together individuals with different personalities and care needs may occasionally cause conflict, and any altercations should be dealt with swiftly and surely."

22) The New York Times reports, FDA Approves First Digital Pill. The New York Times reports that the FDA for the first time "has approved a digital pill — a medication embedded with a sensor that can tell doctors whether, and when, patients take their medicine." Users who take the pill, which is a version of the antipsychotic Abilify, "can sign consent forms allowing their doctors and up to four other people...to receive electronic data showing the date and time pills are ingested." Some health experts speculate the technology could become "potentially coercive."
23) The Washington Post reports that Researchers Find That U.S. is Unprepared For Discovery of an Alzheimer’s Treatment. According to The Washington Post, a new study from Rand Corp. found that because of a shortage of specialists and equipment to diagnose and treat Alzheimer’s disease in the US health care system, even if there were a treatment, "people would have to wait a year and a half for access." The researchers “estimated 15 million Americans suffer from mild cognitive impairment that may be an early sign of Alzheimer’s,” and “Once a treatment is available that can prevent or slow the disease, they will need to be screened.” Soeren Mattke, a senior scientist at Rand, explained, "All of a sudden, the numbers explode. ... There are really large numbers of patients, many of whom will not have signs of early-stage memory loss" and that "we need to process them all, to find the ones that do have Alzheimer’s pathology – and that means moving a lot of patients through the health-care system."

24) CBS News reports that Complications in Qualifying For Medicare “Observation” Status Leave Some Older Adults With High Costs. CBS News reports, a "common and often misunderstood Medicare billing policy" often leaves older adults paying high costs for hospital observation. The piece says that to qualify for Medicare benefits paying for prescribed follow-up treatment specialized care SNFs, "patients must have previously stayed in a hospital for three days, not counting the day of discharge," although they must be "considered an outpatient" and placed under "observation" status. The piece features recommendations on how to ensure one qualifies for outpatient observation status to receive the benefit.

25) The AP reports that CMS Increases Medicare Part B Premiums For Outpatient Coverage For Many Beneficiaries. The AP reported that CMS released a notice recently that included higher monthly Part B premiums for outpatient coverage for many Medicare beneficiaries. The AP explained that "the standard Part B premium will stay the same next year – $134 a month," but "many beneficiaries will still have to pay more...because their Social Security checks are going up 2 percent after several years of little or no cost-of-living raise." The increase in premiums from $109 to $134 per month will "eat away at an increase in their Social Security checks."

26) McKnight’s reports on:

- Simulation Program Teaches Nursing Home Administrators About Patient-Centered Care. McKnight’s Long Term Care News reports a recent study (PDF) conducted by University of Wisconsin – Eau Claire researchers that featured a "24-hour simulation program" placing nursing home administrators-in-training in the roles of residents found the experiment "helped promote person-centered care." The findings, published in the Patient Experience Journal, "were categorized as ‘Always Experiences,’ an idea created by patient-centered care advocates to capture ‘aspects of the patient experience that are so important to patients and families that health care providers should always get them right.’"

- Alzheimer’s Medication Research Must Expand Beyond Targeting Beta Amyloid. In an op-ed in STAT, Howard M. Fillit, MD, the founding executive director and chief science officer of the Alzheimer’s Drug Discovery Foundation, argued that while Alzheimer’s research has focused on medicines targeting the buildup of beta amyloid plaques, "such trials have failed." He urged researchers "to devote at least the same amount of attention to other approaches that could slow, prevent, or even reverse Alzheimer’s," such as treatments targeting "neuroinflammation, genetics and epigenetics, neuroprotection, and metabolic and mitochondrial dysfunction," along with new targets yet to be discovered.

- AARP Launches Lawsuit Against Provider Over Alleged Resident Dumping. A California long term care facility is on the receiving end of a first-of-its-kind lawsuit from AARP. The seniors advocacy organization has accused the provider of “dumping” residents who require the most care and staff time. The suit was launched by AARP on behalf of Gloria Single, a former resident of Pioneer House in Sacramento, CA. Pioneer House staff said Single became combative and was sent to a hospital to be evaluated, NPR reported Monday. The hospital did not find anything wrong with Single, but Pioneer House reportedly refused to readmit her, claiming it couldn't care for someone with her level of needs.

- Retroactive Medicaid Coverage In Jeopardy, Could Hurt Providers. More states may soon be able to opt out of providing retroactive Medicaid coverage, a trend that could put more cost burden on providers, according to
some observers. CMS’ recent approval of a Medicaid waiver for Iowa would let the state choose to forgo retroactive coverage — which covers medical bills acquired for the three months prior to a beneficiary’s application — for most enrollees. In total, the Iowa waiver is expected to reduce Medicaid spending by $36.8 million and cut enrollment by 3,344 beneficiaries per month. Iowa’s approval may mean more states seek the waiver to “save some money and ... reduce the scope of their Medicaid program,” Barbara Eyman, of Eyman Associates, told Bloomberg BNA for a story published Monday.

27) **Interesting Fact: Earth is Closest to the Sun in Winter.** You might be surprised to know that in the northern hemisphere the earth is closest to the sun during winter. Around the 3 January, the Earth reaches **perihelion** (*peri* meaning 'near' and *helion* meaning 'sun') and the earth is 3.1 million miles closer to the sun than at **aphelion** (around July 5 when the earth is furthest from the sun). Earth’s distance from the sun is not what causes the seasons but it does affect the length of them. Around **perihelion** the earth is moving around 1 kilometer per second faster than at **aphelion** which results in winter being 5 days shorter than summer.