

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

Edited by Drew Vogel

drewvogel5255@msn.com

Vol 7

06/25/2023

THEY SAID IT:

The world will continue to lose an average of over \$700 billion dollars every year (in expectation) to pandemics unless we make critical investments Glennerster, Kelly & Snyder opinion in *The Hill*

[Data on cremations could] "provide relatively accurate information about excess deaths" Yanzhong Huang, of the Council on Foreign Relations after China failed to post the annual cremation stats that could have shown the impact of COVID in China

"For too long, IPC has been under-resourced and put on the back burner" Letter from Association for Professionals in Infection Control and Epidemiology calling for a full time infection control specialist in each facility

It Was Online So, It Must Be True

A study of more than 50,000 Cleveland Clinic staff members aimed to assess the effectiveness of the bivalent omicron booster against infection between September 2022 and March 2023, a period when 8.7% of the employees tested positive.

Some on social media have misrepresented the study as proving that getting more doses increases a person's risk of infection.

The researchers didn't find that more doses caused a higher risk of infection. Rather, the finding was an association that could be due to multiple other factors.

The study actually concluded the booster provided some protection.

SciCheck, 06/16/2023

\$7.2 Trillion. Damn! That's Lot of Money

National health expenditures are projected to grow 5.4%, on average, over the course of 2022–31 and to account for about \$7.2 trillion, roughly 20% of the economy.

The insured share of the population is anticipated to exceed 92% through 2023, in part as a result of record-high Medicaid enrollment, and then decline toward 90% as coverage requirements related to the COVID-19 public health emergency expire.

The prescription drug provisions of the Inflation Reduction Act of 2022 are anticipated to lower out-of-pocket spending for Medicare Part D enrollees beginning in 2024 and to result in savings to Medicare beginning in 2031.

Health Affairs, 06/14/2023

MA Plans Overpaid 20% - Maybe More

An analysis by the USC Schaeffer Center found that MA plans are overpaid by \$75 billion annually, much of that because the cheaper plans attract beneficiaries with lower cost needs.

More than half of all Medicaid beneficiaries are now enrolled in MA plans, which often deny or delay nursing home care and pay less for it than traditional Medicare.

The USC researchers found that MA beneficiaries had significantly lower expenditures than those remaining in traditional Medicare with similar risk factors. Among the 7.1 million people who switched to MA from 2015 to 2019, payments were twice their expected expenditures.

McKnight's, 06/16/2023

Some States Reject Federal Right to Arbitrate

CMS issued a rule last year that prevents nursing homes from requiring arbitration agreements for residents to receive care.

But a ruling in Illinois this month, in which the court said a provider couldn't compel the daughter of a resident to arbitrate her negligence claim because she only

had a healthcare POA, illustrates the conflict that can arise in states that view arbitration as a financial decision rather than one related to healthcare.

The ruling adds to growing concerns that states that don't favor arbitration are actively working to make it an ineffective option for nursing home operators.

McKnight's, 06/12/2023

Nurse's Assn. Visits Congress Re: Staffing Solutions

Nearly 400 members of the American Nurses Association (ANA) trekked to the Capitol recently to engage Congressional leaders to refine approaches to implementing staffing standards.

The nurses urged members of Congress to:

- Enact legislation to prohibit mandatory overtime for nurses.
- Require the Occupational Safety and Health Administration (OSHA) to issue a national health care workplace violence standard.
- Implement nurse staffing standards to ensure nurses have the time and the resources that they need to deliver quality care and positive outcomes.

ANA President Jennifer Mensik Kennedy called for nurses to be the "primary decision makers" for staffing solutions.

ANA news release, 06/15/2023

Montana Gives Nursing Homes a "Historic" Increase

Gov. Greg Gianforte has signed the state's roughly \$14.3 billion primary budget bill, which substantially increases reimbursement rates for health care providers who care for Medicaid patients.

The fight over how much to increase Medicaid reimbursements for certain types of providers dominated much of the 2023 Legislature.

In fiscal year 2024, facilities will see their base rate increase by 25.8%, with another 6% in fiscal 2025. It amounts to an increase of \$339.4 million in combined state and federal funds over the two years.

Advocates for behavioral health providers heralded the governor's announcement.

Billings Gazette, 06/13/2023

IN THE TRENCHES – COVID-19 in the States, The SNFs, The World

AMERICA: Starting July 1, 2023, a provider's consultant pharmacy will no longer be able to bill Medicare for the administration fees associated with COVID-19 vaccines given to patients receiving Medicare Part A coverage. Instead, that responsibility will fall back to providers (**AHCA/NCAL**).

AMERICA: COVID relief fraud: the biggest grift in U.S. history. Fraudsters have reportedly stolen more than \$280 billion in Covid-19 relief funding. "Economies were in free fall." says AP reporter Richard Lardner, "so the standard safeguards that normally protect federal money from going to the wrong people were lowered....they saw an opportunity for an easy payday, and they grabbed it" (**CNN**).

WUHAN, CHINA: A Chinese military scientist who was reportedly thrown to his death from the roof of a Wuhan institute is at the center of mounting evidence that the Covid pandemic resulted from a lab leak. US Senate intelligence reveals that Zhou Yusen filed a patent for a Covid-19 vaccine on February 24, 2020, barely a month after China put Wuhan into lockdown because of the outbreak. Investigators said the amount of technical data in the patent would have taken three months to generate, meaning scientists were secretly working on a Covid vaccine in November, two months before Beijing revealed the pandemic (**The Daily Mail**).

AMERICA: Although physicians and scientists commonly experience online harassment, it was especially true during the COVID pandemic. Among 359 physicians, biomedical scientists, and trainees responding to a survey by the Northwestern University Feinberg School of Medicine, 64% reported harassment related to comments made about the COVID pandemic, 31% reported being sexually harassed, and 18% reported their private information had been shared (**JAMA Network Open**).

CHINA: The government has failed to release data on how many cremations took place in the country at the end of 2022 – obscuring a key indicator

(excess deaths) that could have shed light on the impact of the wave of Covid-19 infections that were sweeping the country at that time. In the past decade China had released cremations statistics every year until now. Experts believe China significantly under-reported the number of people who succumbed to the virus during that time (**CNN**).

LONDON: Senior British minister Michael Gove described a video showing a party at the ruling Conservative Party's headquarters during a lockdown in 2020 as "terrible." Former Prime Minister Boris Johnson has since resigned from Parliament. The 45-second clip shows revelers partying in December 2020 when the British public in London were banned from socializing indoors to help prevent the spread of COVID-19 (**Reuters**).

AMERICA: The FDA vaccine advisory panel voted unanimously to recommend a fall COVID-19 vaccine that focuses on the newly dominant XBB strains. Pfizer, Moderna, and Novavax will now begin manufacturing millions of doses of the new formulation for fall release (**Marin HHS**).

AMERICA: That FDA independent panel of advisors did raise doubts about the need to "periodically" update Covid vaccines. The original voting question included language about whether the panel recommends a "periodic update" to Covid shots. That section was struck, because the panel simply isn't sure whether there would be a need to update or not (**CNBC**).

AMERICA: The very next day the FDA said it has advised manufacturers that are updating their COVID-19 vaccines to develop monovalent shots to target the XBB.1.5 subvariant. So-called monovalent, or single-target vaccines, would be a change from the most recent bivalent COVID boosters that targeted both the original and Omicron strains of the coronavirus (**FDA**).

CALIFORNIA: Local surveillance in Marin County has shown that the so called "Arcturus" variant (XBB.1.16) is now the

most common strain locally. This emerging strain has been well established in the East Coast for several months and seems to behave similarly to the previously dominant XBB 1.5 strain (**Marin HHS**).

AMERICA: Millions of people who strangely lost their ability to taste or smell after a COVID-19 infection have had their senses fully return. However, millions of others have not. Of 35.8 million U.S. patients diagnosed with COVID-19 in 2021, 60.5% reported loss of smell, while 58.2% experienced loss of taste. Smell hasn't fully return for 24.1% and 3.7% didn't recover that sense at all. Further, 20.6% didn't fully recover their sense of taste and 2.6% haven't regained that sense (**Center Daily Times**).

THE WORLD: Meta Platforms said a policy that was put in place to curb the spread of misinformation related to COVID-19 on Facebook and Instagram would no longer be in effect globally. In 2021, Facebook said it took down 1.3 billion fake accounts between October and December and removed more than 12 million pieces of content on COVID-19 and vaccines that global health experts flagged as misinformation (**Reuters**).

AMERICA: Recent studies show that compared to statistics before quarantine eating disorders surged among children and teenagers during the COVID-19 pandemic, doubling among teenage girls. In 2020, emergency-room visits for mental health interventions (eating disorders are considered a mental health issue) increased by 24% among children ages 5 to 11, and 31% among teenagers between the ages of 12 to 17 (**The Good Men Project**).

COVID-19, 06/23/2023

Global Cases – Deaths

768,187,096 – 6,945,714

Vaccination Doses

13,461,344,203

U.S. Hospitalizations – Deaths

6,183,075 – 1,132,872

U.S. Vaccination Doses

139,918,910

CDC & WHO

The Cost of a Universal Coronavirus Vaccine

We estimate that if the federal government made an advanced market commitment — a legally binding commitment to buy something if it is invented — to purchase enough universal coronavirus vaccine to vaccinate 33% of the American population, it would cost about \$5 billion and save the U.S. \$700 billion to \$1 trillion.

The investment risks are relatively low. If a vaccine does not meet the target product profile for a universal coronavirus vaccine set out by the government, the government wastes no money.

If it is met, we protect ourselves in advance against a very real public health threat.

Opinion from Rachel Glennerster, Thomas Kelly, Christopher Snyder, The Hill, 06/17/2023

CMS Study Supports On-Site Acute Care in Nursing Homes

The “Initiative to Reduce Avoidable Hospitalizations Among Nursing Facility Residents” examined whether on-site treatment of six medical conditions — CHF, COPD, skin infection, dehydration, UTI and pneumonia — would help to reduce avoidable hospitalizations in this population.

Investigators compared care trajectories in nearly 17,000 episodes of on-site treatment and 5,907 in-hospital treatment episodes.

Among the residents treated on-site, 14% were subsequently hospitalized and 8% died within 30 days. Residents treated in the hospital, meanwhile, were more likely to be admitted (26%) or to die (17%).

Investigators urged nursing home medical directors to take note.

JAMDA, McKnight's, 06/09/2023

SNFists? Good for SNFs Not for Rehospitalizations

The “rapid” adoption of SNFists, in skilled nursing care, has increased Medicare referrals, but it has not led to reduced rehospitalizations.

In a study of nearly 4,500 nursing homes, SNFists — defined as physicians, nurse practitioners and physician assistants who concentrate their practices in nursing homes — increased from 13.5% of facilities in 2013 to 52.9% in 2018.

While the number of post-acute admissions increased after SNFists started working in facilities, the University of Pennsylvania researchers found there was “no statistically significant change” in the acuity index of patients. Nor was there any lowering of the 30-day hospital readmission rate.

JAMA Network Open, 06/14/2023

Providers Rally Against Looming Lab Tests Cuts

PAMA, the Protecting Access to Medicare Act, was meant to bring lab fees in various settings within standard market rates. But a flaw in early rate setting has led to \$4 billion in cuts in nine years. The Congressional Budget Office had projected only \$2.5 in cuts over 10 years.

The next round of cuts is slated for January and threatens a 15% reduction to as many as 800 different tests.

That could jeopardize access to many of the clinical laboratory tests that are used to diagnose, monitor and manage diseases, especially among nursing home residents.

McKnight's, 06/16/2023

Telehealth Pay Bill for Therapies Before Congress

The possibility of permanent Medicare payment for telehealth services delivered by therapists has been reintroduced. The bill was introduced in the last Congressional session but was not debated.

It would instruct CMS to permanently adopt the temporary waiver of restrictions on payment for telehealth delivered by PTs and PTAs, OTs, OTAs, speech-language pathologists, and audiologists.

The HHS Secretary would also be allowed to further expand the list of authorized telehealth providers.

American Physical Therapy Assn, 06/07/2023

ONE COLUMN

Providers - Be Aware of Immunization Policy Changes

The various vaccines will remain free until the federal stockpile depletes, which is anticipated to happen in August or September.

At that point, federal distribution will give way to commercial distribution, with vaccines expected to cost \$130/dose.

Most private insurance providers will cover these commercialized vaccines as preventive care; they will also still be covered under Medicare Part B and Medicare Advantage without cost-sharing, as they are now.

“When a facility submits for that, they'll get reimbursed for the product and then they'll get that administration fee,” explained TJ Griffin, chief pharmacy officer at PharMerica of the commercialized vaccines.

Some coordination with pharmacy partners will still be necessary when it comes to reporting requirements. The commercialized vaccines will also be delivered in single-dose vials rather than the multi-dose vials currently in use.

“That's good news, which will make it easier for the pharmacy and for the facility,” he said. “If they only have six patients, the pharmacy will send them six doses.”

The federal stockpile of oral therapies for COVID-19 remains robust, with enough to last until or through the fourth quarter of 2023. At that point, a transition to commercial distribution will take place, and oral therapies may involve cost-sharing or co-pays for patients on private insurers and Medicare.

The FDA approved *Paxlovid* in May, so commercial billing has already begun for Medicare Part D members receiving that medication. “If you have a Medicare Part A patient, that would be part of the consolidated billing,” Griffin added. “It'd be like any other drug that's sent to them once the free supply is out. And that's going to run about \$800 for a course of therapy.”

Provider Magazine, 06/20/2023

SCOTUS Lowers Bar on False Claims Dismissals

In an 8-1 decision the U.S. Supreme Court ruled that states may move to dismiss *qui tam* (*Whistleblower*) cases whenever they have intervened – whether early in the case or later as new details emerge.

The decision is an important one for nursing homes, whose owners are often targeted in high-dollar suits in which “relators,” (private individuals) attempt to bring a case on the government’s behalf, alleging misuse of federal dollars.

Relators stand to collect triple the amount of financial damage alleged. The number of False Claims allegations has exploded since Congress established their right to sue in 1986.

McKnight’s, 06/16/2023

850 Victims, Only 400 In Class Action

Of about 850 residents evacuated from a makeshift warehouse during hurricane Ida in 2021, Only around 400 residents have filed claims to receive part of a \$12-\$14 million class-action settlement.

The residents were evacuated from seven nursing homes then owned by magnate Bob Dean.

There are concerns, however, that some of the victims or their family members did not know about a June 15 claim deadline. Attorneys also have said about 100 of Dean’s former residents have died since Ida.

Dean was stripped of his nursing home licenses and faces state charges for cruelty to the infirm and Medicaid fraud.

NOLO.com, 6/16/2023

Eight Months Later And Still No Bonus

The third installment of the State Department of Health’s Health Care and Mental Hygiene Worker Bonus (HWB) program is set to hit this summer.

The program was launched as a thank you to frontline health care workers for their tireless work during the pandemic. Employees could earn up to \$3000 paid

in three installments. All eligible employees have received bonuses – all except 80 working at The Grand in Buffalo.

The facility says the problem is a computer glitch – state’s portal won’t accept The Grand’s ID number. State and local politicians are now involved in an effort to correct the problem.

WKBW-TV, 06/21/2023

SNF’s Internal Investigations Can Remain Private

Nursing homes and other healthcare providers can’t be compelled to turn over internal investigative documents even in cases where substandard or unsafe patient care is alleged.

A NJ law designed to reduce medical errors by promoting self-reporting and internal investigation was challenged by plaintiffs who argued investigations should be made public, in part, because one of the cited incidents was not reportable to authorities, and therefore not protected.

An appeals court ruled the entire internal investigatory process is privileged, “shielding a healthcare facility’s deliberations and determinations from discovery or admission into evidence.”

McKnight’s, 06/22/2023

CEO Sent to Prison Diverted CCRC Funds

The former CEO of Christ the King Manor, a CCRC in DuBois, Pennsylvania, has been sentenced to (9 months to 5 years) in state prison for stealing potentially hundreds of thousands of dollars from the facility.

Samuel Joseph Zaffuto diverted funds to buy vehicles, vacations, support a youth fair and his family.

In one instance he ordered staff to roll up towels and place them on windowsills to block cold drafts in resident rooms, then diverted \$50,000 in funds set aside for new windows to remodel his office and that of his assistant, who is also his wife.

Altoona Mirror, 06/21/2023

Briefly IN THE NEWS

There were 17 healthcare companies with more than \$10 million in liabilities that filed Chapter 11 bankruptcy in the first quarter of 2023. That compares to just seven in the first quarter last year. Envision, Invacare and Sorrento Therapeutics were the most notable of the seventeen. Despite the year-over-year increase, the first quarter of 2023 still had fewer bankruptcies than the fourth quarter of 2022 (*Bloomberg Law*).

Advisers to the FDA have decided data from the makers of the Alzheimer’s disease drug *lecanemab* (*Leqembi*) supports traditional, or “full” federal approval, a step up from the fast-tracked approval the drug received in January. This major development, which the FDA will consider, follows a decision by Medicare to limit coverage of drugs in the class until they receive full approval (*McKnight’s Clinical Daily News*).

When asked to compare the cost of their professional liability insurance to one year prior, just over half of nursing care operators (52%) said their rates had gone up significantly or slightly. Still, those rate hikes were lower than among their senior living peers. About two-thirds of memory care and assisted living operators reported slight or significant increases, followed by three-fifths of independent living operators (*NIC*).

During the 2018-19 school year vaccine opt-out rates in Maine were the sixth-highest mark in the nation. The state stopped allowing religious or philosophical objections to common childhood immunizations, including whooping cough and measles, in 2021. Last year just 0.8% of the new kindergarteners requested exemptions (*Bangor Daily News*).

The developers of a major nursing home project are pulling the plug for now, another victim of inflationary and regulatory pressures. The \$25 million project was set to add 120 skilled nursing beds to the operational portfolio of RCA Management, which already runs buildings in the McGuire Group, Absolut and VestraCare chains (*McKnight’s*).