

Issues and Outlook

Our advocacy for the coming year will be governed by our six Leadership Imperatives: strengthening not-for-profit leadership, engaging consumers, creating the new financing paradigm, leading innovation, cultivating talented people, and pioneering technology.

Moving forward, we expect to focus on the following issues in the coming year:

Medicare/Medicaid

Current situation: A 2% across-the-board cut in Medicare payments to health care providers is scheduled to take effect on January 1, 2013 under the terms of the 2011 Budget Control Act. Legislation enacted in February will cut skilled nursing facilities' Medicare reimbursement for bad debt to 65% beginning in 2013. The cut will be phased in over three years for bad debt attributed to dual eligibles.

Outlook: In early February, President Obama submitted a proposed budget for fiscal 2013. His budget called for the following changes in Medicare and Medicaid:

- 1.1% annual reduction in Medicare market basket updates for skilled nursing facilities and home health agencies for fiscal years 2014 through 2021.
- Reduce Medicare coverage of bad debt to 25% in 3 years;
- Reduce Medicare payments by up to 3% for SNFs with high rates of hospitalizations;
- Require new Medicare beneficiaries to make co-payments for home health care services;
- Lower trigger for the Independent Payment Advisory Board to initiate cuts in Medicare spending.
- Continued implementation of the ACA requirement that CMS develop a value-based purchasing program for SNFs and home health;
- Continued work on implementing ACA demonstration programs and initiatives including innovation grants, ACOs, bundled payments, and home- and community-based long-term care alternatives;
- Single, blended matching rate for federal Medicaid funding.

The House Budget Committee has approved a 2013 budget plan different from the Administration's, with the following Medicare and Medicaid provisions:

- Repeal of health care reform (but would likely preserve the Medicare market basket update cuts the ACA provided for skilled nursing facilities and home health);
- Beginning in 2023, replace the present Medicare program with a voucher system. This proposal would apply to people now aged 55 and under.

- Transform Medicaid into a block grant with substantially reduced funding.
- Cut total discretionary spending by \$19 billion below the cap contained in the 2011 Budget Control Act. Section 202 housing, Section 8 rental assistance, Older Americans Act programs, and other programs that support seniors in the community are discretionary spending programs that could be affected by this reduction.

The House will likely pass the Budget Committee's 2013 budget plan and ignore the Administration's proposal. However, the Senate leadership has indicated that the Senate will not consider a 2013 budget plan this year. Realistically, Congress is unlikely to act on Medicare and Medicaid until after the elections this November.

LeadingAge position: Our advocacy will emphasize the importance of the Medicare and Medicaid programs, the value that not-for-profits provide to our residents and their communities, and the danger of across-the-board cuts to quality of care and services

We maintain that Congress should not impose additional Medicare and Medicaid cuts on long-term services and supports providers. While we understand the seriousness of the federal budget situation, we are urging Congress and the Administration to take a balanced and thoughtful approach to budget issues. The long-term services and supports field has had to absorb a number of Medicare and Medicaid cutbacks, and enough is enough.

We support and will work for passage of legislation to correct the problem of Medicare observation days and to improve Medicare coverage of adult day services.

CLASS

Current situation: The Department of Health and Human Services decided in 2011 to halt the implementation of the Community Living Assistance Services and Supports (CLASS) initiative for financing long-term services and supports.

Outlook: The House passed legislation in late January to repeal CLASS. The repeal measure is likely to face more of a challenge in the Senate, where CLASS has more support.

LeadingAge position: We strongly support CLASS. We will fight the repeal effort and continue to urge HHS to appoint the advisory council called for in the Affordable Care Act to move the initiative forward.

Preserving the CLASS program is critical. CLASS represents a unique and important public-private effort to address the need for an affordable and accessible financing mechanism for persons who require long term services and supports. This need was identified in 2006 by our financing Cabinet in its ground-breaking study detailing the

current methods of covering LTSS and their strengths and weaknesses. No alternatives have been identified that replace CLASS.

Senior Housing

Current situation: Despite intense direct and grassroots advocacy, Congress severely reduced funding for Section 202 housing this year, and provided no money for new Section 202 housing development.

The President's FY13 budget request for the HUD and USDA rural housing budgets unfortunately uses FY12 as the baseline for program funding despite the extreme reductions that housing programs took for this year.

- The budget request for the Section 202 program has funding for “new development” using \$100 million for an operating subsidy to support projects funded from other sources. It is unclear how the new program will work and how the proposed change will support the need for service coordinators. The Assisted Living Conversion Program (ALCP) was zeroed out.
- Many of the project based Section 8 contracts will be short funded to “save” funding in FY13.
- The housing counseling program used by many seniors, the Section 515 multifamily loan program was zeroed out and limited preservation funding was available through the .
- There was a significant increase in the Section 504 repair loans and grants for very low-income homeowners. This is a program many seniors use to fix their homes and make them safe and accessible.

Unlike Medicare and Medicaid, housing programs are subject to annual appropriations, so there will have to be some consideration of these issues before the elections. While the appropriations process for fiscal 2013 is likely to be far from orderly, there will need to be at least a continuing resolution before the new fiscal year begins on October 1.

LeadingAge position: We are advocating strenuously for a restoration of funding for new development. We also are working for sufficient funding for all project-based Section 8 contracts to prevent a repetition of the late HAP payments that caused so much havoc a few years ago.

Home- and Community-Based Services

Current situation: The Older Americans Act (OAA), which funds nutrition, transportation, and other home- and community-based services, was due for reauthorization in 2011, but Congress did not consider legislation to renew the program.

Congress continued funding for OAA programs at a slightly reduced level for fiscal 2012. Home-delivered and community nutrition programs and transportation programs did not receive funding cuts.

Outlook: OAA reauthorization legislation likely will be introduced this year but its chances for enactment are uncertain. Funding for OAA programs likely will be part of the budget and spending debate that will last into the lame duck session.

LeadingAge position: We continue to advocate for the inclusion of a “Housing with Services” section within the OAA. The new section would target grants to provide congregate services in affordable housing communities, helping older adults remain in their homes and communities.

We also support the Senior Transportation and Mobility Improvement Act, which would give states more flexibility in their use of Federal Transit Administration Section 5310 funds.

The Senate Special Committee on Aging continues to monitor the financial performance of CCRCs as well as looking at the role of federal oversight of assisted living. We are working with the committee on recognition of the financial health of CCRCs and the continued strong performance of the vast majority of CCRCs.

Regulatory Issues

We are working with members of Congress and with CMS on CMS proposals to reduce the use of anti-psychotic medications in nursing homes. We point out that these efforts should include improved care for people with dementia in the community as well as in nursing homes.

We are advocating with members of Congress and the Drug Enforcement Administration to resolve overly restrictive and unworkable regulations on the administration of pain medication to nursing home residents.

We will continue our work with a coalition of other employer groups to preserve the present rules on organization of workplaces, which we believe strike the right balance between employers and employees.

We will continue working with CMS to make sure that regulations on participation in the Medicaid home- and community-based waiver program do not exclude assisted living and other community-based providers due to overly restrictive criteria.

Engage Consumers/Culture Change Modifications

Current situation: We participate in a National Life Safety Code Task Force established by the Pioneer Network.

The task force has submitted four proposals to the National Fire Protection Association to change the Life Safety Code in ways that would support the “creation of home in the nursing home.” The proposals relate to kitchens serving no more than 30 residents, furniture in corridors, combustible decorations and gas or electric fireplaces.

Outlook: Our next step, along with the task Force, will be to work toward publication of a proposed rule and adoption of the 2012 NFPA 101® LSC by the Centers for Medicare and Medicaid Services (CMS).

Technology

Through the Center for Aging Services Technology (CAST), we will continue to demonstrate how providers are using technology and technology-enabled care models to deliver better quality of care and reduce costs.

We also support S. 501, the Fostering Independence Through Technology (FITT) Act to provide incentives for home health agencies to use home monitoring and communications technologies to improve access to care and help beneficiaries remain in their own homes.