



Wisconsin

CMS Proposed Staffing
Mandate:
All Member Call

September 29, 2023

Agenda

- ▶ What is included in the proposed CMS Staffing Mandate?
- ▶ What is the potential impact of implementation of this proposal?
- ▶ Where do Wisconsin nursing homes stand in terms of meeting the requirements?
- ▶ How are LeadingAge National and LeadingAge Wisconsin taking action?
- ▶ What can nursing home providers in Wisconsin do to raise concerns and provide feedback to CMS?
- ▶ What questions do you have?

What is included in the proposal?

- ▶ The proposed mandate requirement would apply to all CMS-certified nursing homes
- ▶ 24/7 Registered Nurse (RN) requirement
- ▶ Minimum staffing for RNs and nurse aides
- ▶ Enhancements to the Facility Assessment requirements
- ▶ New Medicaid payment transparency provisions
- ▶ Exemptions will require that all specific criteria be met: location, good faith efforts to recruit and retain staff and documentation of financial commitment.

What about LPNs?



LPNs are not calculated in the proposed staffing ratio. The ratio is .55 HPRD for Registered (RNs) and 2.45 HRPD for Certified Nursing Assistants (CNAs)



LPNs are not counted or used in the proposed HPRD mandate and cannot be substituted for a CNA or used in CNA hours

Where do WI nursing homes stand in terms of meeting staffing ratios?

- ▶ Total Nursing Homes (331)
 - ▶ RN: Met 84.9%, Not Met 13.0%, Missing 2.1%
 - ▶ CNA: Met 37.8%, Not Met 60.1%, Missing 2.1%
- ▶ Non-profit Nursing Homes (101)
 - ▶ RN: Met 88.1%, Not Met 9.9%, Missing 2.0%
 - ▶ CNA: Met 54.5%, Not Met 43.6%, Missing 2.0%
- ▶ Government Nursing Homes (45)
 - ▶ RN: Met 95.6%, Not Met 0.0%, Missing 4.4%
 - ▶ CNA: Met 75.6%, Not Met 20.0%, Missing 4.4%
- ▶ For Profit Nursing Homes (185)
 - ▶ RN: Met 80.5%, Not Met 17.8%, Missing 1.6%
 - ▶ CNA: Met 19.5%, Not Met 78.9%, Missing 1.6%

Source: [Skilled Nursing Facility Staffing PBJ Data Q1 2023](#); Currently, the publicly reported PBJ numbers do not include actual time values as it only includes total hours worked by day. This means that currently there is no way from the PBJ data to determine how SNFs are meeting the proposed requirement of an RN working 24 hours a day/7 days a week.

What is the proposed timing for implementation?

- ▶ The 24/7 RN requirement would be implemented two years from the date the final rule is published. For providers in rural areas, based on the [Census Bureau definition](#) of “rural” that includes all population, housing, and territory not located within an urban area, the 24/7 RN requirement would be implemented three years from the date the final rule is published.
- ▶ RN and nurse aide HPRD standards would be implemented three years from the publication date of the final rule. For providers in rural areas, based on the Census Bureau definition of “rural” that includes all population, housing, and territory not located within an urban area, RN and nurse aide minimum staffing standards would be implemented five years from the publication date of the final rule.

What are the concerns being raised about this proposal?

- ▶ Insufficient workforce supply with which to staff to these proposed standards
- ▶ Inadequate funding for nursing homes to pay additional staff
- ▶ Displacement of Licensed Practical Nurses (LPNs)
- ▶ Potential Impact: Closures and an overall reduction in staffed beds resulting in lower access to care, contrary to the intended goal of enhancing quality

Timing for action

Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting (CMS 3442-P) proposed rule was published in the Federal Register September 6, 2023.

Comments to Centers for Medicare & Medicaid Services (CMS) are due by November 6, 2023. This rule is proposed, and the comments received will be considered for the final rule.

Although the comment period is sixty (60) days, the time frame for the rule to be finalized does not have a commitment date. All comments will need to be analyzed and reviewed by CMS and then a final rule will be issued.

How are LeadingAge National and LeadingAge Wisconsin taking action?

▶ **LeadingAge National**

- ▶ Coordinating national and state-level efforts to ensure a consistent and forceful voice
- ▶ Developing impact analyses at a national, state, and facility level
- ▶ Updating the Facility Assessment toolkit with the enhanced requirements for Facility Assessment

▶ **LeadingAge Wisconsin**

- ▶ Providing updates and listening to member concerns through multiple communication channels (email, phone, region calls)
- ▶ Meeting state leaders to educate and share concerns
- ▶ Offering guidance to writing effective and personalized commentary to CMS

What can nursing home providers in Wisconsin do to raise concerns and provide feedback?

- ▶ Provide commentary directly to CMS - details on next slide
- ▶ Contact your Members of Congress
- ▶ Consider writing an Op-ed
- ▶ Watch for more opportunities like virtual or in-person fly-ins
- ▶ Follow communications from LeadingAge National and LeadingAge Wisconsin and join ongoing Townhall sessions

How do I submit commentary to CMS?

- ▶ Utilize the form provided on the Federal Register site: [Federal Register :: Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting](#)
- ▶ Use the National Action Alert: [Action Alerts \(leadingage.org\)](#)
- ▶ Tell your unique story about how this rule will impact your facility
- ▶ Comments must be received by CMS by Monday, November 6, 2023 - Remember to reference file code CMS-3442-P in your comments
- ▶ Apply the LeadingAge tips for submitting commentary or reach out to LeadingAge Wisconsin staff for assistance



Questions