

June 11, 2010

# Capitol Connection

## AHCA/NCAL Launches New Blog: Long Term Care Leader

*Amy Mendoza*

AHCA/NCAL launched today *Long Term Care Leader*, a blog which will contain updates, news and opinions from AHCA/NCAL President and CEO Bruce Yarwood and Senior staff members.

AHCA/NCAL launched today *Long Term Care Leader*, a blog which will contain updates, news and opinions from AHCA/NCAL President and CEO Bruce Yarwood and Senior staff members. The purpose of the blog is to provide timely, in depth information and engage readers into an online discussion. AHCA/NCAL member benefits, legislative campaigns and reactions to news and other developments affecting the long term and post acute care industry are just some of the areas that will be covered. The first blog post provides a review of the findings of a new national survey from The Mellman Group finding voters strongly opposing more Medicaid funding cuts. To read the full blog post, click [here](#).

## AHCA/NCAL Members' Ask For FMAP Gains Attention In The Media

Earlier this week, CQ Healthbeat News comments on the hundreds of AHCA/NCAL members advocating for FMAP on the hill.

Earlier this week, CQ Healthbeat News took notice when they saw Governors' determination to get Congress to extend FMAP. Their article, "Keep the Medicaid Money Flowing, Governors Plead", reported on the controversy surrounding FMAP and the impact on states and long term care facilities if FMAP is not extended. In addition to highlighting the different problems states would encounter due to cuts in Medicaid funding, the article commented on the hundreds of AHCA/NCAL members on the hill advocating for FMAP. Bruce Yarwood was quoted in the article, saying "The eldercare financing crisis at hand cannot be papered-over or pushed to the policy back burner, and Congress must act now."

## Congressional Briefing 2010: A Big Success

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Over 400 AHCA/NCAL members attended the 2010 Congressional Briefing on Capitol Hill – the largest crowd ever -- and urged Congress to approve a temporary increase in the Medicaid Federal Medical Assistance Percentage (FMAP.) The attendees heard from various Members of Congress, including Congresswoman Kathy Castor (D-FL) who spoke about her recently introduced legislation, The Nursing Home Patient & Medicaid Assistance Act of 2010 (H.R. 5457), which would assist high-volume Medicaid nursing homes.

Senator Ben Cardin (D-MD) surprised Bruce Yarwood, AHCA/NCAL President and CEO, with the Joe Warner Lifetime Achievement, in recognition of a lifetime of commitment and devotion to the advancement of quality of care for America's frail, elderly, and disabled.

Congressman Sander Levin (D-MI), Chairman of the House Ways & Means Committee, thanked Bruce for his commitment and praised the 2010 Joe Warner Patient Advocacy Award honorees: Gail Clarkson, Michigan; Arlene Miles, Colorado; and Michael Torgan, California. Senator Pat Roberts (R-KS), Congressman Zack Space (D-OH) and Congresswoman Stephanie Herseth Sandlin also spoke about federal legislative issues affecting the long term care profession.

## New Mellman Poll Finds Voters Oppose Cuts To Long Term Care

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A new national survey from the Mellman Group released on June 10 finds that voters overwhelmingly oppose further cuts to Medicare and Medicaid funding of skilled nursing care. Speaking to staff at a Capitol Hill briefing hosted by Mark Mellman discussed key voter attitudes regarding Medicaid and Medicare cuts, their perceptions about long term care in terms of recently-passed health care reform, and how Medicaid cuts would influence their voting. The survey found that participants across all demographics opposed cuts in Medicaid reimbursement rates, and that voters are much less likely to support lawmakers who voted for such cuts to nursing facility funding. The survey also found that most participants were in favor of using federal aid to prevent Medicaid cuts. To see the full summary of the Mellman polling click [here](#).

## **FMAP Action**

### *Reed Franklin*

The debate over the six month extension of FMAP continues to play out on Capitol Hill, with the senate expected to take action on a bill that contains the Medicaid funding and the RUG IV correction next week.

As previously reported, the House of Representatives passed the extender package that did not contain the six month extension of the additional FMAP support but did contain the correction for the RUG IV implementation date problem before they left for the Memorial Day recess. The Senate was expected to take up the bill this week, but the Senate Democratic leadership needs to have at least one Republican senator vote for the bill and more if they lose Democratic votes. Republicans and some moderate Democrats are opposing the bill due to concerns about the cost.

The Senate leadership is now planning to take up the bill next week. At press time, the Senate Republicans released an alternative bill they intend to offer as a substitute, but that proposal does not contain the additional FMAP money.

## **Ask Congress To Support Enhanced FMAP**

AHCA/NCAL continues to call on all advocates to contact their Members of Congress and ask them to act quickly to pass the six month FMAP extension before July 1<sup>st</sup> when many states begin their fiscal year.

AHCA/NCAL continues to call on all advocates to contact their Members of Congress and ask them to act quickly to pass the six month FMAP extension before July 1<sup>st</sup> when many states begin their fiscal year.

The federal support provided by the current FMAP increase has allowed states to minimize cuts to their Medicaid programs. However, without congressional action, the enhanced FMAP will expire at the end of this year, jeopardizing care for 42 million Medicaid enrollees.

It is our understanding that the Senate is working on legislation that contains this extension and it is extremely important that they hear how critical this issue is to the long term care community. Any legislation passed by the Senate must return to the House for consideration.

Please [Click Here](#) to ensure that vital Medicaid funding is protected by sending a letter to your Members of Congress today!

## **Last Call: Not-for-Profit, DD Hero Nominations Due**

### *Melissa Temkin*

AHCA members can make nominations to two awards up to June 18, 2010.

AHCA members can make nominations to two awards up to June 18, 2010. One, the [Not-for-Profit \(NFP\) Community Benefit Program Award](#), can be submitted by an NFP facility or its foundation. The [Developmental Disabilities \(DD\) Hero Award](#), who can be an employee, is also accepting nominations. Please make sure nomination forms are typed; please advise your state affiliate of your nomination. Honorees will be recognized at the AHCA/NCAL Annual Convention in Long Beach CA, Oct 10 - 13, 2010.

## **2010 AHCA/NCAL Convention Education Sessions Are Now Online!**

### *Yvonne Hill*

2010 AHCA/NCAL Convention Education Sessions Are Now Online! Register Today: Early Bird Registration Ends July 21, 2010.

**2010 AHCA/NCAL Convention Education Sessions Are Now Online!****Register Today****Early Bird Registration Ends July 21, 2010**

Attendees can now view this year's convention education session descriptions, objectives, and speaker information online. Access is easy by just following the steps below:

- Visit [www.AHCAconvention.org](http://www.AHCAconvention.org), or [www.NCALconvention.org](http://www.NCALconvention.org).
- Click on the Education hyperlink on the left hand navigation bar.
- Click on the Education Session icon at the bottom to launch Attendee Planner Plus.
- You can view your Education Sessions by track, date, speaker or keyword.

To access a complete list of education session details and descriptions, click the "Search" button.

Participants will find a variety of education offerings on thirteen learning tracks. Educations sessions include:

- NCAL day and the Not for Profit Board and Executive Leadership Seminar (*Separate registration is required for both*)
- MEGA Session: MDS 3.0 and RUG IV
- Caring for the Caregiver
- Peer-to-Peer Learning forums
- And much more

**Get the Maximum Content Value from Your CEUs**

- Earn up to 16 continuing Education Credits
- Join us early on Monday, October 11, when sessions will start at 7:30am
- Attend NCAL Day and the Not for Profit Board Leadership Seminar

Visit [www.AHCAconvention.org](http://www.AHCAconvention.org) or [www.NCALconvention.org](http://www.NCALconvention.org) to register and get additional convention details.

**New Avalere Health Survey***William W. Hartung*

To capture data relative to the impact of this economic downturn, the American Health Care Association (AHCA), in collaboration with the Alliance for Quality Nursing Home Care (AQNHC), has engaged Avalere Health, a strategic healthcare advisory healthcare advisory firm based in Washington, DC, to conduct a survey.

The recent economic downturn has impacted nursing facilities' access to credit and ability to care for their patients. To capture data relative to the impact of this economic downturn, the American Health Care Association (AHCA), in collaboration with the Alliance for Quality Nursing Home Care (AQNHC), has engaged Avalere Health, a strategic healthcare advisory healthcare advisory firm based in Washington, DC, to conduct a survey. The information gathered in this survey will be used to assist AHCA and AQNHC to educate Congress about how the sector

has been affected.

The survey requests information related to the effect of the credit crisis on your organization's access to credit and decisions related to capital improvement. The survey also requests information on changes in your organization's Medicaid payment rates, mix of patients, and staff compensation.

We request your assistance by completing this survey. Separate surveys have been created for individual facilities and corporations.

Individual nursing facilities can access the survey online [here](#).

Corporations can access the survey online [here](#).

All survey responses submitted to Avalere Health will be kept strictly confidential. As an independent third party, Avalere Health will collect and de-identify all survey responses prior to dissemination to AHCA and AQNHC. Survey results will only be released publicly in the aggregate.

On behalf of AHCA, thank you for taking the time to complete this survey. We appreciate your feedback and participation in this survey. If you would like to speak with someone further about the content of this survey, please contact Nicole Cafarella (202-207-3475) at Avalere Health.

### **Is Your Facility Prepared for Disasters or Emergencies?**

*Robert L. Cavanaugh*

Once again hurricane season is here. Is your facility prepared to meet any disaster or emergency?

Once again hurricane season is here. Is your facility prepared to meet any disaster or emergency? AHCA offers a range of books, videos, and CDs to help you: *Fire, Building, and Life Safety Code* (product #8127, \$45 member price), *Emergency Management Guide* (product #6844, \$75 member price), *Dietary Disaster Plan* (product #6870, \$74.95 member price), and many others. See the Disaster & Emergency Planning section of our [online bookstore](#). Order at 800-321-0343 or [online](#).

### **CCRC Rewards Program Does Not Violate the Anti-Kickback Statute**

*Melissa Temkin*

The U.S. Department of Health and Human Services Office of Inspector General (OIG) recently issued an [advisory opinion](#) to address a proposed rewards program for referrals of prospective residents to the Requestor's continuing care retirement communities (CCRC) by current residents and employees.

The U.S. Department of Health and Human Services Office of Inspector General (OIG) recently issued an [advisory opinion](#) to address a proposed rewards program for referrals of prospective residents to the Requestor's continuing care retirement communities (CCRC) by current residents and employees. OIG found that this "Proposed Arrangement" would not generate prohibited remuneration under section 1128(b) of the Social Security Act (Act), the federal Anti-Kickback Statute. The anti-kickback statute makes it a criminal offense to knowingly and willfully offer, pay, solicit, or receive any remuneration to induce or reward referrals of items or services reimbursable by a Federal health care program. Where remuneration is paid purposefully to induce or reward referrals, the anti-kickback statute is violated.

The majority of residents in the Requestor's CCRC are at the independent living level of care and tend to remain at that level for a number of years after moving into the CCRC. As independent living services are not reimbursed by a federal health care program, the OIG considers the rewards program in question to be acceptable. Accordingly, OIG states in its opinion that it would not impose sanctions on the Requestor under sections 1128(b)(7) or 1128(a)(7) of the Act.