NY nursing homes fear costs of complying with new CMS rules

As the state's nursing home industry digests some 700 pages of new regulations issued Wednesday by the Centers for Medicare and Medicaid Services to improve the quality of long-term care, some industry experts say they are worried that the costs of meeting the new standards may far exceed the government's estimates.

The rules represent the first substantial changes in the agency's regulations governing long-term care facilities that receive government funding in 25 years—including a controversial new provision patient advocates fought for. It bans nursing homes from requiring residents and their representatives to agree that all disputes will be settled by arbitration, giving families with grievances their day in court.

The new rules "represent a massive revision of program regulations," Dan Heim, executive vice president at LeadingAge New York, which represents about 230 nonprofit and government-sponsored long-term care facilities in New York state, said Thursday. "What will have to follow is interpretative guidance from CMS to state agencies on how to survey and enforce the new requirements, and state governments will have to train surveillance staffs on how to inspect facilities and enforce the regulations."

And Heim is worried how nursing homes will shoulder their share of compliance costs. CMS previously estimated such costs would run almost $64,000 per facility in the first year and $55,000 in subsequent years, said Heim. "When we looked at the proposed regulations last year and did an analysis of what we believed
the annual compliance costs would be, we came up with a much higher number, close to $160,000 for the
average-sized facility," he added. "CMS in the rulemaking doesn't make any provisions for additional
reimbursement to fund those new requirements."

For example, facilities will need to add new competencies in behavioral health and augment staff training.
They'll also have to increase their pharmacy services to comply with the requirements to conduct more
frequent reviews of patients' medications, Heim said.

"Like most proposed rules by a government agency, they've substantially underestimated the cost of
implementing this," said Richard Herrick, president and chief executive of the New York State Health
Facilities Association, whose members include nonprofit, for-profit and government-sponsored long-term
care facilities. For example, he said, nursing homes will be required to hire one or more staff members
dedicated to infection control.

While the regulations take effect Nov. 28, many provisions will be implemented over a three-year period.

Joe Tomaino, principal of health care strategy & business transformation at the consulting firm Grassi & Co.,
said he's still analyzing the new CMS rules, but he's concerned that the agency is trying to implement
payment standardization "sooner rather than later" without thoroughly studying the matter.

The agency reviewed more than 10,000 public comments solicited last year in crafting the regulations that
govern some 15,000 long-term care facilities serving almost 1.5 million residents nationwide.

"These new rules set high standards for quality and safety, while providing facilities with important flexibilities
that will assist with the preservation of quality of life and quality of care, and are grounded in the concepts of
person-centered care," Andy Slavitt, acting administrator and Dr. Kate Goodrich, director of the Center for
Clinical Standards & Quality, wrote in a blog post on the CMS website m. "These changes are an integral
part of CMS' commitment to transform our health system to deliver better quality care and spend our health
care dollars in a smarter way, setting high standards for quality and safety in long-term care facilities."

Patient advocates applauded the new rules, particularly the provision prohibiting mandatory arbitration. In an
email blast to its membership, the trade group said it was a victory for the rights of nursing home residents.
"It is our hope that this victory will bring further momentum to our effort to eliminate forced arbitration clauses
from consumer contracts, whether in health, banking, product purchasing or other transactions in which the
individual consumer is at a disadvantage."—R.S. and J.L.

State approves managed-care contracts

New York State Comptroller Thomas DiNapoli recently approved $1.2 billion for four Medicaid-managed long-term care
contracts, running from 2017 through 2021. Healthfirst received the largest contract, at $884.6 million, for its Medicaid
Advantage Plus program. As of September 2016, Healthfirst had 3,977 Medicaid Advantage Plus members in New York
City and Nassau County. Other Medicaid Advantage Plus contracts approved included $275.4 million for Elderplan, $36
million for Fidelis Care and $25.1 million for VNS Choice. The Medicaid Advantage Plus program provides medically
eligible beneficiaries with coordinated care at home. Under the plan, members are assigned a care management team...
comprised of a nurse, a social worker and support coordinator. The care team aims to manage a member’s medical, pharmacy and long-term care needs. In all, there are 6,220 beneficiaries enrolled in such plans statewide.—J.L.

NYC funding for supervised injection facilities sparks controversy

The New York City Council is facing opposition to its announcement this week that it will use $100,000 from its AIDS budget to fund a study on the impact of supervised injection facilities—clinics that allow people to shoot heroin and other intravenous drugs in a supervised environment. "This is the wrong message to send," State Assemblyman Andrew Raia, R-Long Island, told Crain’s following a press conference he held Thursday condemning the City Council's announcement. "The last thing we want to do is normalize the use of heroin." The facilities also won’t prevent people from shooting up once they leave, pointed out Warren Zysman, chief executive of ACI Drug Dependency Treatment Centers. About 66 cities around the world already have supervised injection facilities, according to SIF NYC, a group that formed last September to advocate for the model as a harm reduction measure in New York. Some studies report that these facilities have led to a decrease in overdose deaths. "With the creation of this study, the Council is continuing our history of leading on innovative strategies to end the epidemic and address drug abuse," City Council Member Corey Johnson said in a statement to Politico.—C.L.

New report highlights challenges for family caregivers

New York caregivers who tend to an infirm family member said they struggle with a lack of information from doctors about the potential side effects from prescription drugs and they often encounter resistance from the patient in taking their medications, according to a new report from the United Hospital fund released on Thursday. The report, "It All Falls On Me," grew out of a series of discussions on caring for wounds and managing prescription drugs that the UHF held to help the AARP develop a series of instructional videos to prepare caregivers for handling medical tasks. As for existing instructional videos, participants said it was helpful when they included a family caregiver performing the task with an instructor providing supervision, not just the instructor performing the task. They also reported that the videos failed to acknowledge the emotional aspect of caregiving, including the anxiety of managing a family member’s care. Videos are an effective tool for educating caregivers because they can be viewed multiple times to reinforce lessons, said Carol Levine, a co-author of the report and director of UHF’s Families and Health Care Project. Many of the participants said they wished they’d had access to learning materials earlier. “There was a thirst for more information,” she said. “They felt they could learn but weren’t sure where to go for that learning.”—J.L.

AT A GLANCE

**CALLEN-LORDE UNIONIZES:** The nearly 200 employees of Callen-Lorde Community Health Center, a network of LGBT clinics based in Chelsea, are joining the union 1199 SEIU. Employees have ratified a three-year contract with the health center that includes a new pay scale for employees and access to educational opportunities through 1199's Job Security and Training and Upgrading Funds.

**RIVINGTON:** Facing criticism over its handling of the closure of Rivington House, a Lower East Side HIV/AIDS nursing home, the de Blasio administration said it would spend more than $16 million to develop a senior housing and health care facility at 30 Pike St. in Manhattan. The city received $16 million in exchange for lifting a deed restriction on the property that allowed the site to be converted to condos.
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CRAIN'S HEALTH SUMMIT: How will the sweeping changes taking place under New York's $8 billion Medicaid reform effort redefine the health care workforce? Find out Nov. 17, when Crain's New York Business hosts its next health care summit at the Sheraton New York Times Square. "The Future of New York's Health Care Workforce" explores how the state's DSRIP program will affect the hiring, training and development of health care professionals. Bernard J. Tyson, chairman and chief executive of Kaiser Permanente, will share his experience in mobilizing a workforce to promote wellness at one of America's leading providers of integrated health care and not-for-profit health plans. For registration and more information, click here.

HOLIDAY: Health Pulse will not publish on Monday, Oct. 3 in observance of Rosh Hashanah.

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