ISSUE BRIEF
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Strengthening Nursing Home Policy for the Postpandemic World: How Can We Improve Residents' Health Outcomes and Experiences?

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ABSTRACT

ISSUE: Prior to the coronavirus pandemic, many nursing homes struggled to provide high-quality care and retain a sufficient workforce. The pandemic magnified their challenges, which are tied to how the U.S. pays for, regulates, and delivers nursing home services.

GOALS: To assess how nursing home policies might be strengthened to improve health outcomes and experiences for residents and improve the work environment for staff.

METHODS: Review of proposals related to nursing home payment, regulation, staffing, quality reporting, and delivery of care.

KEY FINDINGS: There are several options for strengthening nursing homes. Medicare payment rates could be brought in line with costs, and Medicaid could pay higher rates commensurate with the costs of delivering care to frail older adults. Additional dollars could be given to direct caregivers. The payment system could encourage more resident-centered models of care. Regulatory reform might encompass increased enforcement and standards consistent with what residents and their family members want from nursing homes. State Medicaid programs could further invest in home- and community-based programs that help keep individuals out of nursing homes.

CONCLUSION: A number of possible nursing home reform options exist to better protect nursing home residents and the individuals who care for them.

TOPLINES

- The consequences of our historical underinvestment in nursing homes have been laid bare during the COVID-19 pandemic, which has taken a deadly toll on residents and staff.
- There are a number of reform options to improve protections for nursing home residents and the people who care for them.

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INTRODUCTION

Nursing homes have been ground zero and the "perfect storm" for the coronavirus pandemic.[1] Residents and staff in these facilities account for a disproportionately large share of COVID-19 cases and deaths in the United States. COVID-19 has brought into clear view many problems that have lingered under the surface for years, including low quality of care, a broken payment model, ineffective regulation, and a lack of transparency related to nursing home residents' health outcomes and experiences. This issue brief considers how the pandemic might lead to changes in how we pay for, regulate, and deliver nursing home services.

PROBLEMS IN THE NURSING HOME SECTOR

The ways in which the United States regulates, oversees, and pays for nursing home care, coupled with the inability of many residents and their families to monitor their care, have contributed to the long-standing crisis in nursing homes. These problems existed prior to the coronavirus pandemic and have likely worsened its effects; basically, the pandemic is a "crisis on top of a crisis."[2]

Problems in nursing homes have been a long-standing issue, despite prolonged public outcry and government commissions.[3] A major reason is the fragmented way in which nursing home care is financed. Nursing homes care for two main groups: Medicare beneficiaries, who stay for short periods to rehabilitate after surgeries or illnesses, and Medicaid beneficiaries, or long-term residents who are unable to live independently. Although Medicare is a generous payer, Medicaid often pays below the cost of caring for frail and medically complex individuals. Thus, the economic stability of nursing home care hinges on admitting enough short-stay Medicare patients to cross-subsidize the care of long-stay Medicaid residents. Nursing homes that are predominantly dependent on Medicaid are poorly resourced, have lower staffing levels, are located in the poorest neighborhoods, have the most quality problems, and are more likely to close.[4]

Another issue is the fragmentation in payment for different types of services for long-stay residents.[5] Many of these individuals are dually eligible, meaning that Medicaid pays for long-term-care services such as nursing, room, and board while Medicare covers physician and hospital services. For this reason, nursing homes do not typically invest in having clinicians on site, which means that sick residents often have to be transferred to the emergency department or hospital for treatment.

Nursing homes also can be difficult places to work. The staff structure at nursing homes is often hierarchical, with direct caregivers holding little power. Because direct caregivers tend to be paid at or near the minimum wage, many workers may view retail establishments and fast food restaurants as better employment opportunities than nursing homes.[6] Direct caregivers are predominantly women, and many are U.S.-born minorities or immigrants.[7]

To date, regulation has been the primary approach to improving the quality of care and quality of life in nursing homes. The Nursing Home Reform Act was passed as part of the Omnibus Reconciliation Act of 1987 (OBRA '87).[8] The performance standards established by OBRA '87 focused on quality of care, resident assessment, residents' rights, and quality of life. Since OBRA '87, the only other major piece of federal legislation affecting nursing homes was the 2010 Affordable Care Act, which included provisions to increase nursing home transparency and accountability, target enforcement, and prevent abuse and other crimes against residents.

Nursing home regulations are extensive and the sanctions for failing to comply with them can be severe, ranging from fines to probation to closure. However, there are clearly cracks in the regulatory framework. Recent investigative reports have documented substantial lapses in oversight and enforcement processes across multiple states.[9] Notably, states are largely responsible for nursing home oversight and enforcement, and many of these problems can be attributed to states' lapses.

It can be difficult for nursing home residents and their families to assess nursing home quality. The Centers for Medicare and Medicaid Services (CMS) produces the Nursing Home Compare website, which enables users to explore data related to health and safety, quality of care, staffing, and other topics.[10] However, evidence suggests that this tool comes up short in terms of use and content.[11]

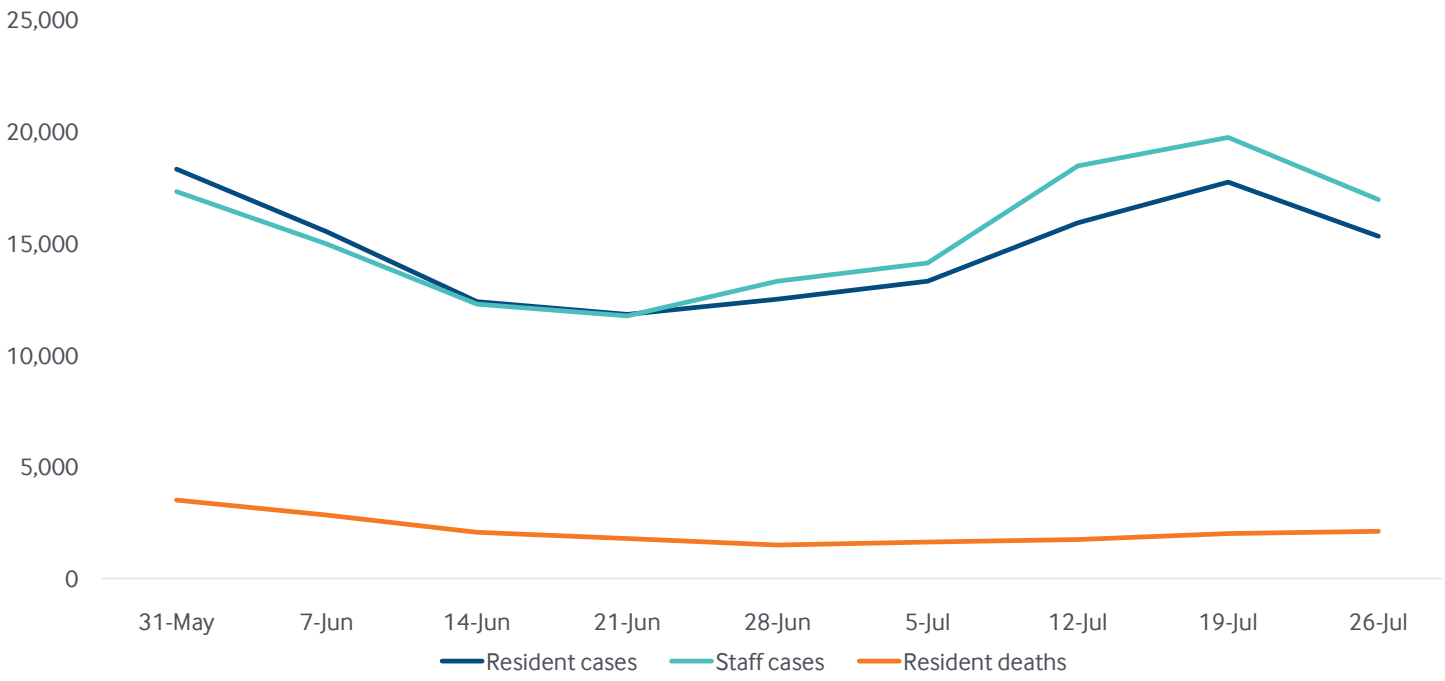
IMPACT OF COVID-19

COVID-19 is widespread in nursing homes, with more than 250,000 reported cases among residents and staff as of June 2020 — 12 percent of all U.S. cases.[12] More than 62,000 Americans are reported to have died from COVID-19 in nursing homes and other long-term facilities.[13] This means that just 0.4 percent of the entire U.S. population accounts for 42 percent of our country's COVID-19 fatalities. According to CMS data, weekly cases and deaths among nursing home residents and staff declined over June 2020 but increased in July 2020 because of escalating cases in the Sun Belt states (Exhibit 1).[14]

If we are going to target policies to reduce the toll of COVID-19 on nursing home residents and staff, it is important to understand what factors lead to cross-facility spread, within-facility spread, and outcomes such as mortality, hospitalizations, and residents' quality of life. Recent studies suggest cases disproportionately occur in nursing homes located in communities with COVID-19 outbreaks, large nursing homes, and homes with a greater percentage of Black residents.[15] The finding that facilities with a high percentage of Black residents are more likely to have COVID cases parallels the trend among Black communities at large. More recent studies support the idea that — conditional on having a case — staff can help mitigate the spread of the outbreak.[16]

Research supports the idea that outbreaks in the surrounding community are the most important factor in explaining outbreaks in a nursing home. Because community transmission has not been controlled, many nursing homes have been in lockdown, with visitors banned and family members unable to see their loved ones. In some facilities, communal dining and activities also have been canceled. This has left many residents feeling lonely and isolated, which can negatively affect their health.[17] Nursing home staff and family members have reported seeing increased confusion, depression, and anxiety among residents.

Exhibit 1. Weekly COVID-19 Cases and Deaths Among Nursing Home Residents and Weekly COVID-19 Cases Among Staff, May 31, 2020–July 26, 2020



Note: Resident and staff cases include both confirmed and suspected cases.

Data: Centers for Medicare and Medicaid Services, "COVID-19 Nursing Home Data," CMS, last updated July 26, 2020.

Given insufficient COVID-19 testing and personal protective equipment, nursing home staff are justifiably frightened. Federal data suggest more than 760 nursing home staff members have died from COVID-19 as of late July.[18] Facilities are experiencing severe staff shortages as many individuals are unable or unwilling to work in these conditions.

The pandemic also has exacerbated long-standing problems related to how nursing home services are financed.[19] Given the need to protect residents and staff and the reduced number of elective surgeries, nursing homes are admitting fewer Medicare patients for rehabilitative services. And in many areas, hospitals are looking to discharge COVID-19 patients, but nursing homes are unable to admit them because they are not able to care safely for these patients. Recent federal data suggest national occupancy in nursing homes has declined by 10 percent — or nearly 100,000 residents — since the beginning of 2020 as a result of declining admissions and deaths.[20] One study suggested nursing home census in Cleveland, Detroit, and New York City declined by 13 percent to 21 percent from March to May, compared with those same months in 2019.[21]

NURSING HOME POLICY IN A POSTPANDEMIC WORLD

A number of steps could strengthen nursing homes in the postpandemic world. These measures include policies related to nursing home payment, regulation, staffing, quality reporting, and delivery of care.

Realign Medicare and Medicaid payments: In terms of payment, the current approach of having Medicare overpay for short-term nursing facility stays and Medicaid underpay for long-stay residents has led to shortfalls and closures at facilities with large numbers of Medicaid beneficiaries. Payment rates could be adjusted such that Medicare rates are brought in line with costs and Medicaid paid a higher rate commensurate with the costs of delivering high-quality, long-term care to frail older adults. In many states, this will require greater federal contributions to Medicaid, which brings into question whether Medicaid nursing home payment should be federalized.

Encourage policies that increase the number of on-site clinicians: Models are needed that integrate medical care and social services for residents, including by having more clinicians working on site in facilities. Examples of such models include Medicare Advantage Institutional Special Needs Plans and nursing home–led accountable care organizations.[22]

Increased wages for direct caregivers: Going forward, policymakers could require that a fixed share of Medicare and Medicaid reimbursement dollars are directed to caregivers through policies such as wage floors and wage pass-throughs.

POTENTIAL STEPS TO STRENGTHEN U.S. NURSING HOMES IN THE POSTPANDEMIC WORLD

- Realign Medicare and Medicaid payments to approximate costs
- Encourage policies that increase the number of clinicians on site
- Ensure payments flow to direct caregivers via wage floors and wage pass-throughs
- Establish minimum nurse and nurse aide staffing standards
- Increase quality transparency
- Enable better enforcement and quality improvement through regulatory reform
- Encourage small-home models and other resident-centered models of care
- Invest in Medicaid home- and community-based services
- Establish a national long-term care benefit

Minimum nurse and nurse aide staffing standards: Beyond ensuring better pay for staff, nursing homes could be required to have adequate numbers of staff to deliver high-quality care. The federal government also could explore a national minimum staffing standard and increase efforts to recruit and retain staff in nursing homes.

Increase quality transparency: Policymakers also could introduce steps that make the information reported on Nursing Home Compare more useful. First, Nursing Home Compare could be expanded to include information that many residents and their families want, such as resident satisfaction scores, whether clinicians are present on site, availability of private rooms, and other metrics. Second, hospitalized patients choosing a nursing home for rehabilitation could do so through Nursing Home Compare.

Regulatory reform: States must have adequate resources to enforce existing nursing home regulations. We also must consider whether the existing rules are working. Inspectors often spend more time identifying minor issues than they do focusing on major quality gaps. The regulatory process is often disconnected from what residents and their advocates say they want from nursing homes. Once violations are identified, inspectors are not allowed by statute to work with nursing homes to address them. One option would be to tie nursing home regulation to quality improvement efforts led by Quality Improvement Organizations and others.

Delivery reform: Historically, nursing homes have been large, institutional facilities with shared rooms that are centered around the needs of the facility more than those of the residents. Smaller, resident-centered facilities have achieved improvements.[23] However, these homes have largely been in wealthier areas and cared for private-pay residents. To expand these resident-centered models to lower-income areas, Medicaid could pay higher rates for nursing home services and invest in retrofitting outdated facilities.

Invest in community-based models: Even with improvements to nursing homes, many individuals and families will prefer care in the community. State Medicaid programs could continue to invest in home- and community-based services (HCBS) that enable people to remain in their homes.

National long-term-care benefit: Another option for reforming the financing of nursing home and HCBS programs is to federalize these benefits. Because the federal government has broader taxing and borrowing authority and state revenues can be quite volatile, federalization would place more of the costs and risks for future cost growth on the federal government.[24] This also would make coverage and payments uniform across states, but would raise federal spending. An additional question is whether policymakers would move beyond federalizing long-term-care coverage and consider more comprehensive long-term-care financing reforms on either a voluntary or mandatory basis.

These policy measures are going to take resources. The consequences of our historical underinvestment in nursing homes have been laid bare by the COVID-19 pandemic, which has taken a deadly toll on residents and staff. It is time to reform nursing home policy to protect the residents of these facilities and the individuals who care for them.

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