



December 20, 2022

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Administrator Brooks-LaSure:

AARP, on behalf of our nearly 38 million members and all older Americans nationwide, thanks the Centers for Medicare & Medicaid Services (CMS) for its recent steps to increase up-to-date COVID-19 vaccination rates among nursing home residents and staff and urges further steps to build upon recent announcements.

We appreciate the Administration's ongoing efforts to increase the number of nursing home residents and staff who are up to date on their COVID-19 vaccinations. However, given the estimated over 175,000 residents and staff of nursing homes who have died due to COVID-19 – a very disproportionate impact relative to their population – and the expected winter surge of COVID-19 cases possibly already underway, more action is needed to address the impact of COVID-19 on residents of these facilities.

AARP's December [Nursing Home COVID-19 Dashboard](#) findings underscore the urgency to ensure nursing home residents and staff are up to date on their COVID-19 vaccinations. According to the data, fewer than half of nursing home residents (45 percent) and less than one quarter of health care staff (22 percent) were up to date as of the week ending November 20, 2022. For this dashboard, up to date on vaccination means that someone has received the bivalent booster, or had a completed primary series or other booster within the past 2 months.

As of mid-November, more than 600,000 nursing home residents across the country are not up to date on vaccinations, leaving them potentially vulnerable to a winter surge. Also, over 1.5 million nursing home staff are not up to date on vaccinations. While the majority of facilities in every state have at least 75 percent of staff who have completed a COVID-19 vaccine primary series (a benchmark set by the industry in late 2020), only one out of every 12 facilities has reached that threshold for the percentage of staff up-to-date on vaccinations.

AARP urges CMS to take additional steps to enforce the requirement for nursing homes to educate and offer COVID-19 vaccines to their residents and staff under the [May 2021 interim final rule](#) and [related guidance](#). The November 22, 2022 [White House fact sheet](#) on the Administration's efforts to get more Americans their updated COVID-19 vaccines before the end of the year states, "...CMS will make clear that nursing homes with low vaccination rates will be

referred to state survey agencies for close scrutiny, and that facilities that do not comply with the requirement to offer and educate on the benefit of lifesaving COVID-19 vaccinations will face enforcement actions, including the need to submit corrective actions plans to achieve compliance.” The [CMS press release](#) on the same day notes, “The agency is particularly disappointed that some facilities are reporting that zero residents have received the updated bivalent vaccine, and we will be looking closely at these facilities.” The December 15, 2022 [White House fact sheet](#) on the Administration’s COVID-19 Winter Preparedness Plan notes, “All facilities should take concrete actions to ensure that every resident is educated on and offered an updated COVID-19 shot...” CMS and state survey agencies’ enforcement of the requirement regarding education about and offering of COVID-19 vaccines (including COVID-19 boosters) is one important tool to help increase up-to-date resident and staff COVID-19 vaccination rates. We also note the work underway with the Department of Health and Human Services (HHS), governors, and others to increase COVID-19 vaccination rates for long-term care residents.

The [CMS press release](#) noted above references CMS’ work with Quality Improvement Organizations (QIOs) to bolster their outreach efforts and set up more vaccination clinics at nursing homes across the country. Prior CMS work with QIOs also included offering individualized assistance in providing vaccinations to residents in most of the nation’s skilled nursing facilities. The December 15 Administration announcement also mentions work with QIOs. We suggest that QIOs, if they are not already, proactively reach out to nursing homes with low up-to-date COVID-19 vaccination rates to support the establishment of on-site vaccination clinics for residents and staff, which could also support facility “good faith efforts” to increase up-to-date vaccination rates. Engagement with resident and/or family councils in facilities may also be another avenue to help increase resident up-to-date vaccination rates.

Under a [November 2021 interim final rule](#), CMS established COVID-19 staff vaccination requirements for applicable Medicare and Medicaid-certified providers and suppliers, including nursing homes. AARP strongly supported this rule. CMS issued [updated guidance](#) on October 26<sup>th</sup> of this year that made changes weakening enforcement of this requirement. While most nursing home staff are fully vaccinated with the primary series, there is considerable state variation in COVID-19 staff vaccination rates, especially with regard to staff that is up-to-date with vaccinations. Given staff turnover in nursing homes, it remains important to ensure compliance with the COVID-19 staff vaccination requirement.

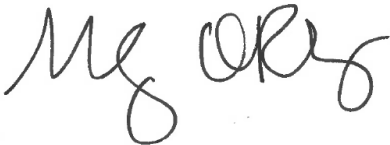
We urge CMS to revise its guidance ([QSO-23-02-ALL](#)) for implementation of this vaccination requirement, specifically in nursing homes, to encourage enforcement. We urge allowing for greater use of citations for deficiencies to match the scope and severity of the noncompliance. CMS might also consider more widespread use of F-tags, specific surveying for compliance with the COVID-19 vaccination requirement, and expanded use of immediate jeopardy citations for noncompliance when appropriate. We observe that the Oct. 26 revisions to CMS guidance and [other CMS guidance](#) narrowed the frequency specific to complaint surveys of expected compliance reviews for the vaccination requirements. CMS should ensure that nursing homes with low vaccination rates do not go unnoticed by surveyors and unaddressed for months if they don’t happen to have a recertification survey or a complaint survey that is specifically alleging noncompliance with the vaccination requirement. AARP also urges CMS to narrow the scope of “good faith efforts” to correct noncompliance in plans of correction to tailor exactly which

facilities can take this path, such as a facility with demonstrated access problems and documented attempts to address them, to prevent facilities from trying to have an easier way out.

Finally, we urge CMS to examine current authorities to make sure the agency is leveraging all of its tools to increase up-to-date vaccination of nursing home residents and staff.

We appreciate CMS' attention and efforts to ensure older adults have access to COVID-19 vaccinations and treatments. We urge you to consider the suggestions above to help increase up-to-date COVID-19 vaccination rates for nursing home residents and staff. We look forward to continued work with CMS on these and other issues impacting older adults and their family caregivers. If you have questions, please contact me or Rhonda Richards ([r-richards@aarpp.org](mailto:r-richards@aarpp.org)) on our Government Affairs staff.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mg O'Reilly', with a stylized, cursive script.

Megan O'Reilly  
Acting Senior Vice President  
Government Affairs