



Posted: 03-09-2009

### **CMS Postpones MDS 3.0 Until Oct. 1, 2010**

The Centers for Medicare & Medicaid Services has announced the postponement of the implementation of the MDS 3.0 until Oct. 1, 2010.

CMS indicated that the revised timeline would be posted on its website soon. The draft materials currently posted are "likely" to change so in-depth training is premature at this point, and data specs would be available in October of 2009.

The postponement will provide respite for the Medicare program, which publishes its SNF consolidated billing rule every year on July 31 or August 1 and must revise its RUG classifications. It will also provide respite to state Medicaid programs, which must do the same for their MA RUG classifications. Software vendors will also benefit from this delay.

#### ***For Further Information:***

Contact Darrell Shreve at [dshreve@agingservicesmn.org](mailto:dshreve@agingservicesmn.org).

### **TB Screening Requirements Are Effective Today**

New guidance to help providers prepare their TB risk assessment has been posted by the Minnesota Department of Health for care centers, boarding care homes, home care providers and supervised living facilities at <http://www.health.state.mn.us/divs/idepc/diseases/tb/riskassess.pdf>.

These new MDH recommendations can assist providers in completing their organization's TB risk assessment worksheet, which is found at [www.health.state.mn.us/divs/idepc/diseases/tb/mmwrwb.pdf](http://www.health.state.mn.us/divs/idepc/diseases/tb/mmwrwb.pdf). This TB risk assessment is required for these health care providers under the new TB screening requirements that are effective today, March 9.

Although we have not received written confirmation of this policy change from MDH, Aging Services has learned that MDH is considering eliminating the requirement that health care employees complete an individual assessment of TB risks, so Aging Services recommends that providers not yet begin asking current or future health care workers to complete a personal TB risk assessment.

Please hold off on using the sample form Aging Services provided to assist providers with this part of the TB requirements. If this requirement is eliminated, the waiver conditions in the recent TB bulletins will need to be revised. Clarification is expected this week.

Home care providers, who have not previously been required to use a two-step Tuberculin Skin Test (TST) to screen employees, will find more information on the two-step TST at <http://www.health.state.mn.us/divs/idepc/diseases/tb/twostepalg.html>. In addition, providers should review the chart on page 29 of the CDC guidelines found at <http://www.cdc.gov/mmwr/pdf/rr/rr5417.pdf> for indications for the two-step TST. In some situations identified in this chart a two-step TST is not indicated. Providers' written TB infection control plan should be specific about how

they will implement the two-step TST requirement.

For ease of record-keeping, some providers may prefer to just consistently do a two-step TST rather than follow some of the exceptions on the CDC chart.

Details for the April 1 training on the new TB procedures for health care providers are not yet available. Watch Monday Mailing for updates on this training.

Providers who want to purchase a printed copy of the current CDC TB guidelines in a three-ring binder format will find publication REG5025 TB Guidelines, 2005 at the Aging Services store at [www.agingervicesmn.org](http://www.agingervicesmn.org).

Further information on conducting a TB risk assessment for your organization is found on the MDH web site at <http://www.health.state.mn.us/divs/idepc/diseases/tb/riskassess.html#conduct>.

#### ***For Further Information:***

Contact Mary Youle at [myoule@agingervicesmn.org](mailto:myoule@agingervicesmn.org) or Liz Sether at [lsether@agingervicesmn.org](mailto:lsether@agingervicesmn.org).

### **Federal Stimulus Bill Greatly Reduces Expected Medicaid Costs**

After the release of the new economic forecast last week, the Department of Human Services provided detailed briefings on the forecast for DHS programs to committees in the House and Senate.

The new DHS forecast includes the impact of the increases in the Federal Medical Assistance Percentage (FMAP), which is projected to save the state more than \$1.8 billion in Medicaid costs over the remainder of the current fiscal year and the next biennium combined.

The FMAP increase in the stimulus bill contains two components, a base increase of 6.2 percent for all states, and a bonus increase for states experiencing high unemployment. Because of recent increases in unemployment in Minnesota, our FMAP adjustment is projected to be 10.19 percent from Oct. 1, 2008 through June 30, 2009, and 11.59 percent from July 1, 2009 through December 31, 2010.

One way of looking at this change is that the federal government is giving the state a temporary price break on the cost of Medicaid services, instead of paying 50 percent of the costs the state is paying less than 40 percent for a 27-month period during which the economic decline is drastically reducing state revenue.

Compared to the huge impact on expected costs from the FMAP increase, the other changes in the DHS forecast are quite minor. For the biennium beginning on July 1, 2009, the forecast is projecting about \$1.36 billion in savings related to FMAP, as well as \$145 million in cost increases in other areas compared to the previous forecast. Since November, largely due to the deterioration of the economy, DHS has increased its projection of how many people will qualify for economic assistance, child care, GAMC, and Medical Assistance.

The growth in all of these programs is primarily related to more families with children projected to be in need of assistance, with very little change in the expected number of elderly and disabled people to be served.

For the upcoming biennium, the projected spending on nursing facilities was revised down by \$0.4 million (0.03 percent) and spending on EW was revised up by \$1.2 million (0.35 percent). Given the size of these programs, the projected change in spending is insignificant. On the other hand, the AC program did see a considerable projected decrease of \$3.8 million or 4.4 percent.

The forecast also includes a change in the GRH program that will be of interest to members who participate in that program. The federal stimulus plan calls for an increase in the thrifty food plan of 13 percent. Because the thrifty food plan is used in the calculation of GRH rates, DHS is estimating that GRH costs will be \$12.2 million, or 5.5 percent, higher than originally projected for the next biennium.

#### ***For Further Information:***

Contact Jeff Bostic at [jbostic@agingervicesmn.org](mailto:jbostic@agingervicesmn.org).

### **Defining Eligibility Is Key Question**

As reported last week, the deficit in the economic forecast release last week stood at \$6.4 billion for the 2010-2011 biennium.

This included the enhanced Medicaid match money from the federal fiscal stimulus plan; the number was lowered to \$4.6 billion. The federal money also means that there is now a surplus for fiscal year 2009. However, the Medicaid money is one-time money and will not be available for the 2012-2013 bienniums.

One of the key questions regarding the impact of the federal stimulus bill on the governor's budget recommendation is how eligibility will be defined. The FMAP increase requires states not to reduce eligibility standards, methodologies and procedures, but it is not yet clear what "eligibility" includes.

The Aging Services advocacy staff has contacted the Department of Human Services regarding whether or not the governor's proposed change to the Level of Care threshold for care centers and waiver programs would qualify as a change to current eligibility. The response back was that the department is awaiting direction from CMS.

What we do know is that provider rate cuts and reduction in particular services or benefits would not be considered changes in eligibility. Therefore, it is very likely that all of these reductions will be made in the governor's new budget, and possibly the budgets from the House and Senate.

Gov. Tim Pawlenty is expected to release his updated budget towards the end of March. The legislature will begin work on its respective budgets soon.

#### ***For Further Information:***

Contact Kari Thurlow [kthurlow@agingservicesmn.org](mailto:kthurlow@agingservicesmn.org) or Jen McNertney [jmcnertney@agingservicesmn.org](mailto:jmcnertney@agingservicesmn.org).

### **LTC Imperative Contracts for Economic Impact Study**

The Long-Term Care Imperative which includes Aging Services of Minnesota has signed a contract with ECONorthwest to provide an estimate of the loss in jobs, income, overall economic investment, and state and local tax revenue as a result of potential budget cuts to long-term care programs.

The report will evaluate the impact of funding cuts to nursing facilities as well as home and community-based programs serving the elderly. With cuts already proposed in the governor's budget, and more cuts a possibility given the large deficit facing the state, solid information on job and economic losses the state will sustain as a result of cuts to aging services programs will be important to our advocacy strategy.

The results of the study should be provided in about a week, so we can begin using the information on loss of jobs and revenue in our messages as new budget proposals are being developed. ECONorthwest has performed similar studies for Oregon and Washington, as providers in those states has also been faced with possible aging services program cuts.

#### **For Further Information:**

Contact Jeff Bostic at [jbostic@agingservicesmn.org](mailto:jbostic@agingservicesmn.org).

### **Next Stop for VAA Bill is Labor and Consumer Protection Subcommittee**

The Vulnerable Adult Justice Project bill, HF 818 (Hilstrom-DFL), passed the Public Safety Policy and Oversight Committee in the House last Thursday.

Its next stop on its circuitous path through the House will be the Labor and Consumer Protection Subcommittee. This will be Wednesday, March 11, from 1 to 3 p.m. in the basement hearing room of the State Office Building.

Meanwhile, its Senate companion, SF 758 (Moua-DFL), gets its first hearing in the Senate on Tuesday. The Senate Judiciary Committee, which is chaired by Sen. Moua, will hear the bill from 3 to 5:30 p.m. in Room 15 of the Capitol.

The bill contains numerous provisions endorsed by consensus by a large number of organizations. For Aging

Services members, the most important provisions strengthen the laws regarding financial exploitation, including mechanisms to discover financial exploitation sooner, increased penalties and a private right of action against exploiters, and standardized criteria for hardship waivers for Medical Assistance. For care centers, there is also a fix for the dual reporting requirements.

**For Further Information:**

Contact Kari Thurlow at [kthurlow@agingervicesmn.org](mailto:kthurlow@agingervicesmn.org) or Darrell Shreve at [dshreve@agingervicesmn.org](mailto:dshreve@agingervicesmn.org).

### Property Tax Clarification Bill Crosses First Hurdle

As previously reported in *Monday Mailing*, Aging Services of Minnesota has been working with the Minnesota Council of Nonprofits (MCN) to clarify property tax determinations for organizations that may potentially qualify as tax exempt as Institutions of Purely Public Charity.

These determinations were threatened with the Under the Rainbow Supreme Court ruling in late 2007 that required all qualified properties to give something away for free or at considerably reduced rates.

Aging Services, MCN, the Department of Revenue, the Assessor's Association and others met 13 times and developed 24 drafts before introducing House File 872/Senate File 751 <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H0872.0.html&session=Is86>.

This bill codifies in statute the six North Star factors used to make tax determinations and clarifies a number of the factors that had been interpreted and applied inconsistently throughout the state.

Last Wednesday, HF872 was heard in the House Property and Local Sales Tax Division with Representative Paul Marquart the bill's chief author in the House testifying on the importance of this measure to nonprofits and Minnesota residents in a time of economic downturn and budget cuts.

John Hagen, from the Department of Revenue, testified that there is little consistency in current assessment practices statewide and was joined by Tom May, from the Assessor's Association, who testified that the process leading to the language of HF872 was truly arduous, yet collaborative.

HF872 was laid over for possible inclusion in the Property and Local Sales Tax Division Report which will be heard by the full House Tax Committee later this session. The companion bill in the Senate (SF751) is expected to be heard later on this month.

**For Further Information:**

Contact Lori Meyer at [lmeyer@agingervicesmn.org](mailto:lmeyer@agingervicesmn.org).

### Are you E3 Ready? Survey on Electronic Billing Readiness Coming Soon

Under a new Minnesota state law, all Minnesota health care providers and health plans must use a standard format to electronically exchange the following information beginning in 2009.

This includes:

- Eligibility Inquiries and Responses (took effect Jan. 15)
- Claims (takes effect 7/15/09)
- Payment/Remittance Advices (RAs) (takes effect Dec. 15)

Minnesota's Administrative Uniformity Committee (AUC) is coordinating this effort and developing the standards for these transactions. The AUC is referring to this effort as "E3," which stands for electronic transmission of eligibility, claims & RAs. Please refer to the FAQs on the AUC website at [www.health.state.mn.us/auc/index.html](http://www.health.state.mn.us/auc/index.html) if you have compliance questions.

Aging Services, in partnership with the AUC, is requesting that all members complete a short, eight-question survey, which will help us identify any obstacles or barriers that may exist to complying with this legislation. We will use the information gathered to develop tools and resources to help you prepare for the new requirements.

Aging Services will be sending out the online survey tomorrow (Tuesday, March 10) via email and we ask members to please complete it by Friday, March 27.

Additional information on electronic billing is located on the Aging Services web site at [www.agingservicesmn.org](http://www.agingservicesmn.org). Members should log in and look for the Electronic Billing link under Featured Topics in the right-hand sidebar on the member home page.

### **My InnerView Invoices Coming This Week - Price Reduced By 3-4 Percent**

Aging Services of Minnesota will mail invoices to members who are enrolled in My InnerView later this week.

Aging Services has negotiated an extension for one year of the contract between My InnerView, Aging Services, and Care Providers.

The cost for current enrollees will go down for 2009. My InnerView's price will rise by \$.05 per bed or unit per month, but the associations' add-on fee, which pays for the billing services provided by the associations and the Data Institute, is changing from 15 percent of the My InnerView price to \$0.10.

This means that the add-on will be less than half of what it was in 2008 for all enrollees, and the overall price reduction for members will typically be between three and four percent.

My InnerView continues to improve their products and service. They introduced several new features in 2008, including the ability for users to view survey comments electronically and enhanced reporting options to permit users to drill deeper into their data. In 2009, My InnerView expects to release an employee commitment survey tool because commitment is as important a measure as employee satisfaction, as well as other features.

Members who are interested in finding out more about My InnerView or enrolling may contact My InnerView directly at [info@myinnerview.com](mailto:info@myinnerview.com), or you may call them at 715-848-2713.

#### **For Further Information:**

Contact Darrell Shreve at [dshreve@agingservicesmn.org](mailto:dshreve@agingservicesmn.org) or Lori Meyer at [lmeyer@agingservicesmn.org](mailto:lmeyer@agingservicesmn.org).

### **HITECH Act Generates Interest, Activity on Health Information Technology**

At both the state and federal levels, policy makers are acknowledging the potential for Health Information Technology (HIT) to improve care, increase staff productivity, enhance the speed and accuracy of communication and increase operational efficiencies.

The Health Information Technology for Economic and Clinical Health (HITECH) Act, which passed as part of the federal stimulus package, is the latest effort to provide significant support for advancing Health Information Technology (HIT) in aging services.

As previously reported in *Monday Mailing*, HITECH includes \$2 billion in matching grants that will be available to states to encourage development and use of HIT. These grants are directed at health care providers that are not covered by incentive payments, so LTC providers (nursing facilities, assisted living, home health, etc) will be eligible for these grants.

Specific grants and requirements are to be developed by states, and HITECH includes extensive requirements to involve providers as state plans are developed and implemented.

The Minnesota Department of Health has informed Aging Services that they are in the process of evaluating the opportunities contained in HITECH and are positioning Minnesota to be able to access as much of the funding as possible to promote the adoption, implementation and effective use of health information technology in Minnesota.

There are several areas of the new law that do not provide sufficient detail to be able to describe exactly how the funds will be prioritized and distributed to the states. Additional information is expected to become available in May, when the Office of the National Coordinator releases the updated Federal Health IT Strategic Plan.

Aging Services members interested in implementing HIT should be aware of the following resources:

#### ***HITECH Information:***

The Minnesota Department of Health has developed a page on its website where all of the latest information will be posted as it becomes available. Current resources available on the site include:

- HITECH Act as signed into law on Feb. 17
- Links to websites of national organizations that provide summaries of the law.
- Link to MDH presentation and testimony before the Minnesota Legislature on grant and loan provisions of the HITECH Act and opportunities for Minnesota.

Please access the following link to visit this site, and continue to check back regularly for updates:

<http://www.health.state.mn.us/e-health/hitech.html>.

#### ***HIT Toolkit***

Make sure you are ready to utilize the HITECH grants by preparing now. Aging Services of Minnesota recently partnered with Stratis Health to develop a comprehensive toolkit to assist nursing homes in planning for, selecting and optimizing HIT and EHR. From readiness assessments and project management tools to vendor selection and contract negotiation, this toolkit provides a roadmap with over 70 resources to assist you.

The toolkit is free for all to use and is accessible via the Aging Services web site or by clicking [www.stratishealth.org/HIT\\_Toolkit\\_NH](http://www.stratishealth.org/HIT_Toolkit_NH). A toolkit specific to home care is in development and will be available in July.

#### ***MN E-Health Summit***

Plan to attend the annual Minnesota e-Health Summit, scheduled for June 25. This event provides an excellent opportunity to learn about the latest developments and to network with other Minnesota stakeholders and peers working to improve quality of care and healthy communities through the effective use of electronic health records and other health information technologies. Please mark your calendar and plan to attend this year's event. More information on the Summit registration will be available in April.

#### ***Aging Services HIT Committee***

If you have an interest in guiding the association's activities surrounding health information technology, it is not too late to sign up for our HIT Committee. For a description of the committee charge and work plan click on <http://www.agingservicesmn.org/inc/data/HITCommittee.pdf>. To sign up for the committee contact Nancy Garrett at [ngarrett@agingservicesmn.org](mailto:ngarrett@agingservicesmn.org).

#### ***For Further Information:***

Contact Lori Meyer at [lmeyer@agingservicesmn.org](mailto:lmeyer@agingservicesmn.org).

### **Statewide Training on New Guidance for F-309 for Care Centers Being Planned**

On Jan. 23, CMS issued new survey guidance on F-309, Quality of Care, which increases the expectations of skilled nursing facilities in the areas of pain management and end-of-life care.

Aging Services of Minnesota is part of a stakeholder group working with the Minnesota Department of Health to develop statewide training for both providers and surveyors on this new guidance. The sessions are currently 'under development' by the stakeholder group and scheduled for the week of May 11-15. The day long training is being planned for five locations as follows:

- Monday, May 11 - Duluth
- Tuesday, May 12 - Fergus Falls
- Wednesday, May 13 - St. Paul
- Thursday, May 14 - Mankato
- Friday, May 15 - West Metro

The implementation date for surveys in Minnesota has not been finalized, but it is anticipated that it will be shortly after the statewide training occurs, so providers should be poised for being in compliance when it does go into effect.

*Monday Mailing* will provide updates as more details about the training and survey implementation in Minnesota become known.

***For Further Information On The Training:***

Contact Heidi Simpson [hsimpson@agingservicesmn.org](mailto:hsimpson@agingservicesmn.org)

***For Further Information On the Regulations:***

Contact Darrell Shreve [dshreve@agingservicesmn.org](mailto:dshreve@agingservicesmn.org) or Liz Sether [lsether@agingservicesmn.org](mailto:lsether@agingservicesmn.org) in the offices.

We will notify current subscribers when the addition to our State Operations Manual is available.

Members who have not yet subscribed can purchase the revised State Operations Manual. The subscription will include the revised guidance on F309 as well as the next two revisions from CMS. The price for members is \$195. We will ship the newly revised material around April 1.

Members who wish to examine the CMS materials that are not yet formatted for our State Operations Manual may download them at this website:

<http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCletter09-22.pdf>

The file is quite large, so it may take some time to download.

## **Dates Announced for 2009 HWS Management Certificate Program**

Registration brochures for the 2009 HWS Management Certificate Programs will be sent out later this week.

The programs will be held:

- April 23 & 24
- May 11 & 12
- June 17 & 18

It is also scheduled for a return visit to the equally popular University of Minnesota Continuing Education and Conference Center in St. Paul. This program is designed specifically to develop the essential skills, knowledge and professional excellence of managers working in housing-with-services settings in Minnesota.

The class size is limited to afford a more interactive and engaging learning experience. It features expert faculty knowledgeable about HWS settings and how they operate in Minnesota. Offered since 2004, the program's content is revised and updated each year to keep it current and relevant to what's going on the field.

***For Further Information:***

Contact Heidi Simpson [hsimpson@agingservicesmn.org](mailto:hsimpson@agingservicesmn.org).

## **Summer Health Care Internship Program Opens**

Each year Aging Services of Minnesota members work to connect with students in their communities and help expose them to the many careers available in the field of older adult services.

Will your organization be a part of this exciting program this year? Employer applications are now being accepted for participation in the 2009 Summer Health Care Intern Program (SHCIP). This program benefits both students and health care employers by allowing students to gain valuable experience in a health care setting and employers to become more involved in their communities by raising awareness of the importance of students to enter health care careers.

Up to half the intern's wages are reimbursed through a grant from the Minnesota Department of Health's Office of Rural Health & Primary Care.

#### Aging Services of Minnesota member benefits:

- Fosters interest in aging services careers
- Promotes recruitment of future talent
- Encourages staff involvement with area high school and college students
- Enhances community relations
- Supports summer projects and staffing needs

#### Student benefits:

- Valuable learning experience through hands-on activities and observation of professionals
- Adjunct to course curriculum
- Summer income
- Career decision-making opportunity
- Potential immediate and long-range employment opportunities

#### Employer requirements:

- Help each student better understand a variety of health careers, duties and health-related issues through scheduled employment duties and observation opportunities
- Hire students who meet the following criteria:
  - High school students who will be entering their senior year in the fall of 2009, or graduating spring of 2009; or
  - Post-secondary students who are enrolled in (but not graduating from this year) a Minnesota two-year or four-year health care degree-granting educational program; or are a resident of Minnesota enrolled in (but not graduating from this year) an out-of-state two-year or four-year health care degree-granting educational program

- Comply with all applicable laws and conduct criminal background checks on any students who will have direct patient contact without direct supervision
- Sign a grant agreement
- Meet obligations as shown on the brochure, available online at <http://www.agingservicesmn.org/inc/data/SHCIP2009.pdf>.

This program is available to all Aging Services of Minnesota member organizations, including care centers, assisted living residences, home health care agencies, hospitals, clinics or physicians.

Members interested in participating in this program are asked to complete the online application at <http://www.mha-apps.com/shcip/> by Monday, April 20. Grant agreements will be established with participating organizations shortly thereafter with a grant signature deadline of May 15.

The reimbursement formula development process is outlined in the application form. Please review to better understand how reimbursement amounts are calculated.

#### ***For Further Information:***

Contact Adam Suomala at [asuomala@agingservicesmn.org](mailto:asuomala@agingservicesmn.org).

### **EW CL Tool Workshop is Thursday**

On March 12 at 9 a.m. and again at 1:30 p.m., the Department of Human Services will present another videoconference on the Elderly Waiver Customized Living Tool.

Building on the Feb. 19 videoconference, which focused on the provider rate input forms, this training will focus on another aspect of the CL tool--the development of the individual Customized Living plan. During the March 12 program, Jolene Kohn, Strategic Planner, and Darlene Schroeder, Program Administrator, Aging and Adult Services Division, DHS, will also introduce the additional worksheets. DHS has developed for providers to use in computing their staff time allocation. This data is needed to complete the provider rate input form.

Pre-registration for the program is required by going to: <http://agingtraining.dhs.state.mn.us>. Times and locations are available at the registration site or on the DHS announcement found at <http://www.agingervicesmn.org/inc/data/VideoconferenceMarch12.pdf>. Registration closes at 5 p.m. on the Monday prior to the session.

Participants are strongly encouraged to download and try out the tools prior to attending the training. The tools are found at: <http://tinyurl.com/ckxseq>. Members with questions on how to test the tool are encouraged to contact Mary Youle.

***For Further Information:***

Contact MaryYoule at [myoule@agingervicesmn.org](mailto:myoule@agingervicesmn.org).

### **State of Seniors Housing Survey Responses Due March 16**

Providers who have received a *State of Seniors Housing Survey* are urged to complete it and return it by the March 16 deadline in order to receive a free copy of the *State of Seniors Housing 2009 Report*.

The American Association of Homes and Services for the Aging (AAHSA) is collaborating on this survey with other stakeholder organizations because the financial performance data disseminated in the report can be invaluable for providers to use in benchmarking their own operations.

The survey is done with complete confidentiality and results are presented only in the aggregate.

***For Further Information:***

Contact Steve Maag, AASHA at [smaag@aahsa.org](mailto:smaag@aahsa.org).

### **Deaf and Hard of Hearing Metro Regional Office to Move March 16**

The Deaf and Hard of Hearing Services Metro Regional Office and the Commission of Deaf, Deafblind and Hard of Hearing Minnesotans will move from the Metro Square Annex to the Golden Rule Building in mid-March.

The regional office, which serves residents of Anoka, Washington, Hennepin, Scott, Carver, Ramsey and Dakota counties, will open to the public March 16. The Metro Regional Office and commission will be located in Suite 105 of the Golden Rule Building, 85 East Seventh Place, in downtown St. Paul.

### **Rep. Kline Reintroduces Secret Ballot Protection Act in House**

On Feb. 25, Rep. John Kline (R-Minn.) and Senators DeMint (R-SC) and Enzi (R-WY) reintroduced the Secret Ballot Protection Act (SBPA).

This bill is in response to the Employee Free Choice Act (EFCA), which is expected to be reintroduced in Congress soon. EFCA would take away a worker's right to a federally supervised ballot when deciding whether or not to join a union. It would replace private ballots with a biased and inferior process called "card check" which allows unions to organize if a majority of workers simply sign a card.

Currently the most common method for determining whether or not employees want a union to represent them is a private ballot election overseen by the National Labor Relations Board (NLRB). The NLRB provides detailed procedures that ensure a fair election, free of fraud, where employees may cast their vote confidentially without peer pressure or coercion from employers or unions.

Union leaders however find private ballot elections to be an impediment and prefer the card check process, where employees are forced to reveal their position on unionization in front of union organizers and fellow employees who support unionization.

According to the Assisted Living Federation of America (ALFA), recent polling by the Coalition for a Democratic Workplace found that 86 percent of voters, 88 percent of union households feel that the voting process should remain private.

ALFA continues to oppose ERCA and supports the Secret Ballot Protection Act. To join ALFA's advocacy efforts on this issue, go to [www.alfa.org/advocacy](http://www.alfa.org/advocacy) where you will find a prepared letter supporting SBPA and opposing EFCA to send to your congressional delegation.

### **US House Refiles Legislation to End Use of Arbitration Agreements**

Congresswoman Linda Sanchez (D-CA) has reintroduced the Fairness in Nursing Home Arbitration Act of 2009.

The bill (H.R. 1237, found at <http://tinyurl.com/d523qh>) would end the use of arbitration agreements in assisted living communities and nursing homes.

Last year Senators Herb Kohl (D-WI) and Mel Martinez (R-FL) and Rep. Sanchez filed similar legislation which would end pre-dispute arbitration agreements in long term care settings, including assisted living.

The Assisted Living Federation of America (ALFA) has been a strong advocate of the arbitration process. According to ALFA, pre-dispute arbitration is proven to be less costly, less time-consuming, and more private than confrontations in the courtroom. Arbitration offers the same fundamental protections as a court of law, and arbitrators can award the same damages as can be obtained in court.

Furthermore, arbitration allows all consumer claims to be heard, not just those of sufficient amount or magnitude such that the consumer can find a lawyer who will agree to represent them.

ALFA members met with Sen. Kohl's staff following the introduction of last year's bill and ALFA is planning additional meetings with other members of Congress and their staff regarding our opposition to the legislation during our fly-in later this month. A sample letter opposing this legislation is available at [alfa.org/advocacy](http://alfa.org/advocacy) for providers to use when contacting their congressional representatives.

ALFA is currently working with lawyers with special expertise in long term care arbitration agreements and will be providing members with additional information regarding this legislation in the near future.

### **Crisis Services for People with Disabilities Forum is March 31**

The Department of Human Services is holding a March 31 forum from 1 to 3 p.m. on crisis services for people with disabilities.

This forum will review strategies to increase community crisis capacity and present the vision for the future role of State Operated Services in serving individuals with complex needs.

Speakers will include Alex Bartolic, Director, DHS Disability Services Division, L. Read Sulik M.D., Assistant Commissioner, DHS Chemical and Mental Health Services, Mike Tessneer, CEO, DHS State Operated Services and Gerry Nord, Supervisor, Capacity, Quality and Safeguards DHS Disability Services Division.

Register at <http://tinyurl.com/bykpwv> by Monday, March 30.

#### ***For Further Information:***

Contact [Dhs.Dsd.Learn@state.mn.us](mailto:Dhs.Dsd.Learn@state.mn.us).

### **Medicare Fraud and Abuse Fact Sheet Has Been Updated**

The Medicare Fraud & Abuse Fact Sheet (Jan. 2009) is now available on the Medicare Learning Network (MLN) at

[http://www.cms.hhs.gov/MLNProducts/downloads/Fraud\\_and\\_Abuse.pdf](http://www.cms.hhs.gov/MLNProducts/downloads/Fraud_and_Abuse.pdf).

The Centers for Medicare & Medicaid Services (CMS) works with other government agencies and law enforcement organizations to protect the Medicare program from fraud and abuse.

Together with CMS, providers can help identify and prevent fraud and abuse; the first step for providers to protect themselves is to understand the legal definitions and be able to identify fraudulent and abusive practices.

### **2009 Committee Appointment Confirmations Sent**

2009 committee appointment confirmations were sent to members via e-mail last week.

If you signed up for a committee and did not receive confirmation, contact Nancy Garrett at [ngarrett@agingservicesmn.org](mailto:ngarrett@agingservicesmn.org). Missed the deadline for committee signup? It is not too late but you will want to act soon. 2009 committees will begin meeting in the coming weeks.

#### ***For Further Information:***

Visit: <http://www.agingservicesmn.org/inc/data/2009Committees.pdf> for the Call for Committee Participation booklet.

### **Aging Services of Minnesota**

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