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State revenues continue to slide below estimates; Senate may look to conference committee to make cuts – The fact that Ohio's economy continues to falter is almost banal to most Ohioans; however, to government administrators and state legislators, it just became a slap in the face. That is because administrative officials released the latest state revenue data indicating a \$600 to \$900 million shortfall for the current fiscal year that ends June 30. State officials plan on using the \$900 million rainy day fund to fill the hole. Unfortunately, these funds were anticipated to be available for the next biennium. Simple math suggests that the Senate would have to trim close to \$2 billion off the current budget bill. Adding to the woes is the grim economic outlook for Ohio. Unless there is an amazing turnaround in the economy, Ohio will not see positive economic growth until 2010 and perhaps it will even be towards the third quarter of that the year. While this puts the Senate in a tight spot, they are under no obligation to use the latest revenue numbers. The Senate can use the same estimates as the House and bring the chopping block to conference committee where both the House and Senate would make the difficult cut decisions. Regardless, the current state finances add a large degree of uncertainty as to what the final budget bill will look like, including expenditures on the elderly in skilled nursing facilities. The Academy continues to actively advocate for fair funding throughout the process and will make sure the voice of the elderly and those who care for them in skilled nursing facilities is heard. ([Back to top](#)).

CMS proposes rule to cut Medicare rates and implement new RUG-IV classifications – The Centers for Medicare & Medicaid Services (CMS) recently proposed adjustments to fiscal year (FY) 2010 payment rates for Medicare beneficiaries in nursing homes. The rule calls for payments to Medicare skilled nursing facilities to be reduced by \$390 million, or 1.2 percent lower than payments for FY 2009. This adjustment to nursing facility payments is an effort to rebalance an earlier adjustment to the case-mix indexes (CMIs). The proposed FY 2010 recalibration of the CMIs would result in a reduction in payments to nursing homes of \$1.050 billion, or 3.3 percent. However, this decrease would be offset by this fiscal year's proposed update to Medicare payments to skilled nursing facilities. The update—a proposed increase of 2.1 percent or \$660 million for FY 2010—is based on the change in prices of a "market basket" of goods and services included in covered skilled nursing facility stays. The percentage increase in the market basket is used to

compute the update factor annually. The combination of the market basket increase and the recalibration of the CMI's yield the 1.2 percent reduction. The proposed rule also:

- Propose a revised case-mix classification methodology (RUG-IV) and implementation schedule for FY 2011, reflecting updated staff time measurement data derived from the recently-completed Staff Time and Resource Intensity Verification (STRIVE) project;
- Invite comment on a possible new rate component to account for the use of non-therapy ancillaries (as recommended by MedPAC);
- Include information on the transition to the Minimum Data Set, Version 3.0 (MDS 3.0) redesigned nursing home resident assessment instrument, including an implementation schedule; and
- Invite comment on a possible new requirement for the quarterly reporting of nursing home staffing data.

The proposed rule went on display on May 1, 2009 at the Office of the Federal Register's Public Inspection Desk and will be available under "Special Filings," at:

www.federalregister.gov/inspection.aspx.

(Source: CMS press release May 1, 2009) ([Back to top](#)).

Don't miss your shot—sign up for the PAC Golf Outing – Don't "bogey" and miss your chance to support the Academy in the upcoming OANH Political Action Committee (PAC) Golf Outing. This annual event is OANH's largest PAC fundraiser and we need YOU to keep it on "par." Participating in the outing helps the PAC earn funds to give the Academy a strong voice in legislative matters. **If you aren't participating, you aren't helping.** Register now to show members you support their association by being a part of this annual member favorite. This year the outing will take place on **Monday, May 18** at the private Medallion Club in Westerville, Ohio. Registration and lunch will begin at 11:30 a.m. with a shotgun start at 1 p.m. After a challenging game of golf, attendees will stay at the course for food, drinks and prizes at the "19th Hole" reception. Prices are \$250 per golfer or \$950 per foursome. Registration brochures have been mailed and you can also view the brochure at www.oanh.org. For more information and to discuss sponsorship opportunities, contact [Dawn Kennedy](#). ([Back to top](#)).

Last chance to learn how to define abuse and neglect, while grabbing four CEUs – Only a few days remain to learn how to correctly define abuse and neglect and obtain four (4) hours of CEU at the upcoming Academy regional education program "**Definitions of Abuse & Neglect.**" This new program will be taught by former ODH investigator, Robert Reed of the Critical Incident Group. Reed will cover how to correctly define abuse and neglect, when you must report an incident and how to protect your facility from a lawsuit. This and much more will be offered on **Thursday, May 14** from 10 a.m. to 3 p.m. in Columbus. Academy members may attend this program for \$89 and non-members may attend for \$129. A member facility may send three employees for the discounted price of \$199, a savings of \$68! Register online at <http://www.oanh.org/educationalofferings.shtml>. For questions, contact [Dawn Kennedy](#). ([Back to top](#)).

May is Older Americans Month – The President of the United States designates each May as a time to celebrate the accomplishments of older citizens, express gratitude for their contributions to society and encourage them to live vibrant, meaningful lives. Ohio's theme for Older Americans Month 2009 is "Reinvent Yourself, Reinvent Aging." "Seniors today are living longer, healthier and more active lives than ever. They want to be engaged in their communities and they want to matter and make a difference," said Strickland. "Just as communities have traditionally supported their elders, seniors are now increasingly supporting their communities and the state by going back or remaining in the workforce, volunteering, mentoring others, learning new skills and more." The Ohio Department of Aging (ODA) is encouraging communities, senior centers, organizations and individuals to host public events to celebrate Older Americans Month and Senior Citizens Day on May 19. Local events traditionally include health fairs, luncheons, dances, outings, day trips and more. The department's Web site, www.aging.ohio.gov, lists activities throughout the month from across the state. The site also includes posters, logos and sample materials to help organizations plan and promote celebrations.

(Source: ODA news release May 1, 2009) ([Back to top](#)).

Update from CMS – The Centers for Medicare & Medicaid Services (CMS) recently released the following information of interest to long-term care providers:

- **Survey & Certification Memos**
 - [09-33: Survey and Certification Issues Related to Swine Flu Outbreak \(4/28/09\)](#)

Human cases of swine influenza A (H1N1) virus infection have been identified in several states in the United States, as well as internationally. Charles Johnson, the Acting Secretary of the U.S. Department of Health and Human Services (at the time), as a consequence of confirmed cases of swine influenza A (swH1N1) in California, Texas, Kansas, and New York, declared that a public health emergency existed nationwide. At this time, the Secretary has not invoked the 1135 waiver authority. The memo gives many links to more information.

- [09-34: Release of Form CMS-2567 \(Statement of Deficiencies\) by State Survey Agencies \(SAs\) \(4/30/09\)](#) This memorandum iterates current law and regulations and guidance contained in Chapters 3 and 7 of the Centers for Medicare & Medicaid Services (CMS) State Operations Manual (SOM) that involve the release of the survey findings as reflected in the Statements of Deficiencies, commonly referred to as the 2567. Procedures for release of the Form CMS-2567 has not changed with the publication of 73 FR 53148, dated September 15, 2008 that amended 45 CFR Part 2 entitled "Testimony by Employees and the Production of Documents in Proceedings Where the United States Is Not a Party." More detailed information concerning the impact of this regulation will follow in the near future.

- **SOM Update**

[Transmittal 43, State Operations Provider Certification](#) was released. It contains an update to SOM Section 2008A regarding the conduct of initial surveys.

- **GPRA**

Attached are two tables with GPRA data updated for Calendar Year 2008, Quarter 4. The first is the [Midwest Consortium Summary Chart](#). The second is [data from all 10 Regions](#). The three time points used in this table are: the baseline measure for the 18-month project that went from April 1, 2006 through September 30, 2007 (Y2005Q4); the final data point for that project (Y2007Q3); and the most current data (Y2008Q4).

- **Access to MDS**

Between May 2009 and January 2010, access to the MDS Submissions System and CASPER Reports for nursing home staff will change. Personal IDs rather than shared IDS will be used for access. Each facility will be required to register a maximum of two users. States will be rolled out over the nine-month period. More information will be provided soon.

- **Inpatient Rehabilitation Facility PPS**

CMS has placed on display at the Office of the Federal Register the Inpatient Rehabilitation Facility (IRF) Prospective Payment System (PPS) for Federal Fiscal Year 2010 Notice of Proposed Rule Making (NPRM). Public comments will be accepted through the close of business on June 29, 2009. The regulation will be published on May 6, 2009 and may be viewed that day and thereafter at http://www.access.gpo.gov/su_docs/fedreg/frcont09.html.

- **Next SNF/LTC Open**

The next Skilled Nursing Facilities/Long Term Care Open Door Forum is scheduled for Thursday, May 28, 2009 at 2 p.m. To participate by phone, dial 1-800-837-1935; conference ID 94282479.

- **Overview of the HIPAA 5010 on MLN Matters**

SE0904 – An Introductory Overview of the HIPAA 5010

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0904.pdf>

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Thank you Golf Outing sponsors – The Ohio Academy of Nursing Homes would like to thank the following PAC Golf Outing sponsors:

- **Registration Sponsor** – Geoffrey Webster & Associates
- **Luncheon Sponsor** – JTCH Holdings. Inc.
- **"19th Hole" Reception** – Howard, Wershale & Co.
- **Registration Brochure Sponsor** – Neace Lukens
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- **Prize Sponsors** – Artina; Benesch, Friedlander, Coplan & Aronoff; Censolutions; Encore Rehabilitation Services; EnduraCare Therapy Management, Inc.; Mobilex USA and The Douglas Company

A few sponsorships still remain, so contact [Dawn Kennedy](#) today and show members you support their organization. [\(Back to top\)](#).

Three ways to garner attention in *The Academy Advocate* – Did you know there are three ways to garner immediate attention in the newly redesigned summer issue of *The Academy Advocate*?

- 1) **Place an ad...**and this professional resource used by everyone in the long-term care industry can help your business grow in this challenging economy! To place an ad, email it to [Christina O'Neal](mailto:Christina.O'Neal@oanh.org) in a PDF or JPG format. Go to <http://www.oanh.org/bus-dev.pdf> to view all ad prices and specs.
- 2) **Submit an article...**and your unique knowledge will be shared with the industry leaders of this profession! To contribute a timely article on your industry (not an op-ed or sales pitch) you must sign the [article release form](#) and email a professional headshot of the author to [Christina O'Neal](mailto:Christina.O'Neal@oanh.org).
- 3) **Voice your opinion...**and get a free education course! As part of the redesign, the magazine will have a new feature called "Member Viewpoint" where members can answer specific questions relating to a long-term care issue. Not only will you be telling the readers of *The Academy Advocate* what you are doing at your facility, but all published answers will also receive a free education course! This issue's question is: "**Community exposure is part of any facility's successful marketing campaign. How does your facility gain exposure in your local community?**" Answers (250 words or less) can be emailed to [Dawn Kennedy](mailto:Dawn.Kennedy@oanh.org) and must include your name, position, the facility's name and a headshot of the author. All answers should be emailed prior to May 22 and authors of published answers will be notified on June 5.

All ads and articles are due no later than Monday, June 1. The editorial staff cannot guarantee that an article or ad received after this date or due to space will be published. Burgie MediaFusion will publish the magazine. ([Back to top](#)).

Need CEUs by June 1? Take one of the Academy's new online courses – Do still need CEUs for your June 1 renewal? Then check out all the great new classes now available on the Academy's virtual university! Our online training makes CEUs available wherever you are—at work, home or on the road. These online classes have been approved by the Board of Examiners of Nursing Home Administrators (BENHA), and administrators may use online or home study courses to fulfill up to five of their yearly 20-hour CEU requirement. Some of the new classes include:

- Introduction to OSHA and the OSH Act
- Employment Law
- Managing Electronic Communication
- Customer Service
- Fire Safety
- Building Security

You may sample any class for free, with no commitment. If you would like to take the class and receive CEU credit from BENHA, the cost is \$20-\$25; however, Academy members receive a discount. Members will need to use a discount code, which is available by the logging into the OANH website. Go to www.oanhonline.org now to learn more about these courses. If you have any questions, please contact [Dawn Kennedy](mailto:Dawn.Kennedy@oanh.org). ([Back to top](#)).

Nursing home that refused to recognize union supported by federal appeals court – A long-term care provider in Georgia that decided not to recognize a union-organizing effort in 2008 has had its decision affirmed by a federal appeals court in Washington. Observers say the case could be a bellwether for hundreds of other cases. Laurel Baye Healthcare of Lake Lanier, in Buford, GA, refused to accept a union unit organized through a National Labor Relations Board election because, the provider claimed, the NLRB lacked a three-member quorum to make legitimate decisions. The U.S. Court of Appeals in Washington agreed with the provider. Two similar cases, in the 1st and 7th circuits, were decided in favor of the NLRB; several other cases are pending around the country. Some observers believe the mixed results make the issue predestined for the U.S. Supreme Court.

(Source: McKnight's Long-Term Care News & Assisted Living, 5/04/09, www.mcknights.com)
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