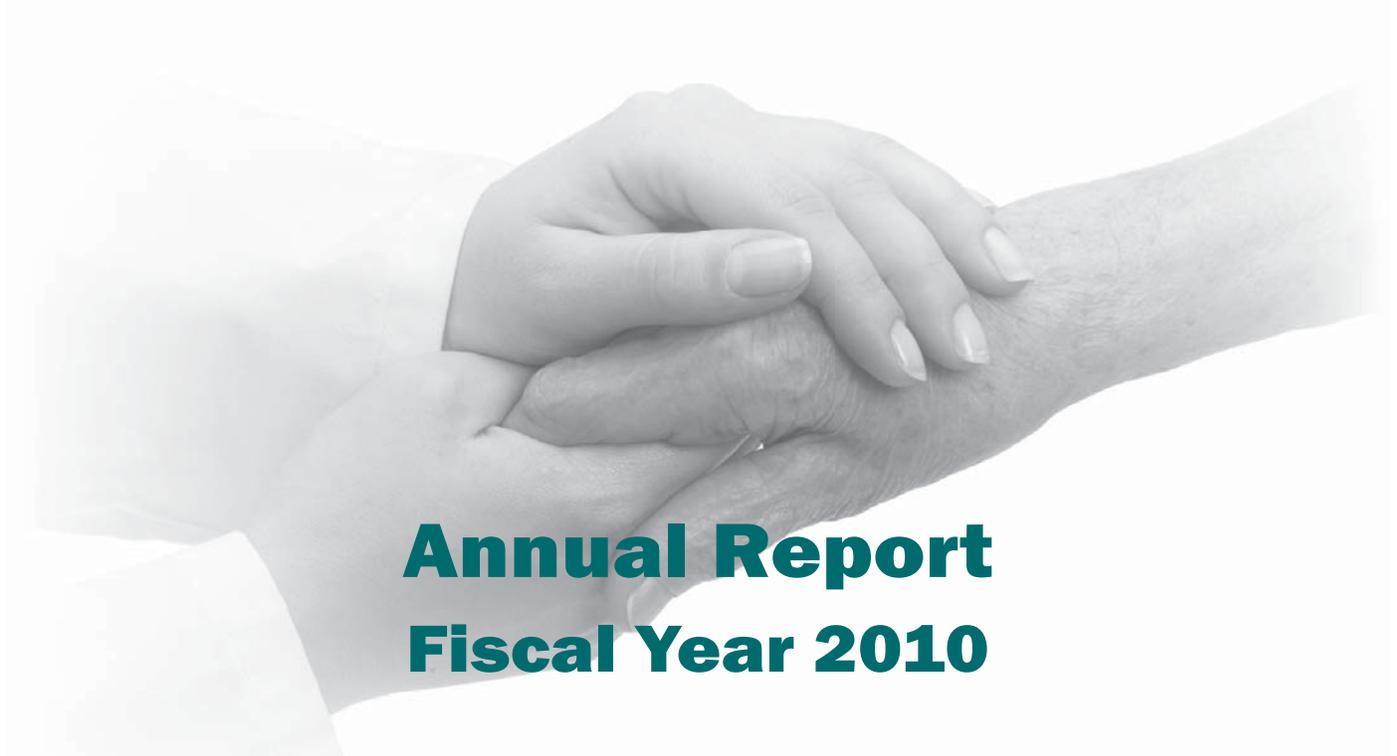




# **Kentucky Association of Health Care Facilities**



## **Annual Report Fiscal Year 2010**

*Representing Long Term Care in Kentucky*

# Chairman's Report

As my first year as the Chairman of your Board of Directors winds down, I would like to thank each of you for your dedication and commitment to the long term care profession. I would also like to extend a personal thank you for your membership and involvement with our Kentucky Association of Health Care Facilities. It has been an honor and a privilege to serve as your Chairman and represent you in the many roles our Association serves within the Commonwealth. This report details those services.



It has been a busy, but productive, year despite the tough challenges our profession has faced from the economic downturn, regulatory issues, and reimbursement concerns. KAHCF's nursing facility and personal care membership has remained stable, proving the value our members see in the many services our Association provides. Our strong membership has provided KAHCF the opportunity to maintain a stable reserve account, and favorable projections for 2010 has positioned us to meet any unforeseen challenges that may arise.

Vendor membership has grown, particularly at the platinum level which now stands at 23 companies. These 23 vendors, who provide valuable services to our member facilities, represented the largest showing of exhibitors at the 2010 Spring Training. KAHCF'S November Annual Meeting and Trade Show continues to be the largest of its kind for Kentucky's long term care professionals with over 1,400 attendees and 142 vendor exhibit booths.

KAHCF remains focused on ensuring an appropriate and sustainable funding system that is crucial for providers to deliver the quality care and services that our consumers expect and deserve. This report details recent and upcoming changes to Kentucky's reimbursement system.

The 2010 Session of the Kentucky General Assembly presented its own challenges to long term care. Through our members' grassroots efforts, our Association was successful toward informing lawmakers about long term care issues. We continue to make great strides in educating our legislators on the role long term care provides within their local economy while also providing a vital and necessary service to their constituents.

The commitment to providing quality care to our residents while ensuring their safety and security always has always been our foremost goal. KAHCF continues to encourage its membership to participate in the many programs that enhance quality care. Among these programs is the national *Advancing Excellence in America's Nursing Homes* campaign. Phase II of *Advancing Excellence* has been launched, and as of the end of April, 142 Kentucky nursing homes were signed up. Of that number, 87 percent are members. While we as an Association are ahead of the national average, we are striving for more. Our goal is to have 100 percent of our membership signed up and we will continue work towards this goal. Quality is our greatest asset in helping the public understand our profession.

In closing, I look forward to serving as your Board Chairman for the 2010-11 year as we continue to advance the long term care profession forward.

***Greg Wells, Chairman of the Board***  
***Vice President of Operations***  
***Wells Health Systems***

# American Health Care Association

The American Health Care Association and National Center for Assisted Living (AHCA/NCAL) is the national trade association that represents nearly 11,000 proprietary and nonproprietary facilities of all sizes and types. While AHCA has worked on many issues over the past year, its primary focus has been President Obama's health care reform agenda. The Patient Protection and Affordable Care Act (PPACA) was signed into law by President Obama on March 23, 2010, along with the Health Care and Education Reconciliation Act of 2010, on March 30, 2010.

This legislation includes numerous health-related provisions that take effect over the next four years, including expanding Medicaid eligibility, subsidizing insurance premiums, and providing incentives for businesses to provide health care benefits. The costs of these provisions are scheduled to be offset by a variety of taxes, fees, and cost-saving measures, such as new Medicare taxes for high-income brackets, cuts to the Medicare Advantage program in favor of traditional Medicare, and fees on medical devices and pharmaceutical companies. The Congressional Budget Office estimates that the net effect of this legislation on the federal deficit will be a reduction of \$143 billion over the first decade of its enactment.

The following positive provisions for post acute and long term care were included in the final bill:

- No targeted reductions to the skilled nursing facility (SNF) market basket for FY 2010 or FY 2011.
- Extension of the exceptions process for the Medicare Part B therapy cap until the end of 2010.
- The Wyden MedPAC language, which was added at AHCA's request, stating that Medicaid must be taken into account during its analyses for providers like skilled nursing facilities.
- Elimination of Medicare Part D cost-sharing for assisted living residents covered by Medicaid under Sec. 1115 or 1915 waivers or under a 1915(i) state plan amendment, which otherwise would be admitted to a skilled nursing facility.
- A demonstration project providing further training opportunities specifically for direct care workers employed in long term care settings.
- The Community Living Assistance Services and Support (CLASS) Act, which creates a disability long term care insurance program.
- A sense of the Congress statement on tort reform. This means the bill would express that health care reform presents an opportunity to address issues related to medical malpractice and medical liability insurance.
- State demonstration programs to evaluate alternatives to current medical tort litigation.
- New grants under the Elder Justice section for health information technology and workforce training.
- A General Accountability Office study and report on the Five Star Quality Rating System.

The following negative provisions for post acute and long term care were included in the final bill:

- A productivity adjustment to the skilled nursing facility market basket will be implemented beginning in FY 2012 (October 1, 2011) and is estimated to total \$14.6 billion over 10 years.
- While implementation of RUG-IV was delayed a year to October 1, 2011, neither the changes to concurrent therapy requirements nor MDS 3.0 were delayed.
- A new Independent Medicare Advisory Board (IMAB) was created to make recommendations to Congress about issues, such as Medicare payment rates for skilled nursing facilities.
- New transparency requirements for nursing facilities.
- Additional background check requirements for skilled nursing facility and nursing facility employees with direct patient access.
- Changes to the reporting of crimes requirement in the Elder Justice section.

For more information regarding health care reform, the AHCA has a dedicated webpage (available at <http://www.ahcancal.org/advocacy/Pages/HealthCareReform.aspx>) that provides an exhaustive analysis, issue-based materials, and a timeline of relevant effective dates.

# Regulatory

Health care facilities were inundated throughout the year with H1N1 information. Nursing facilities and personal care facilities assumed responsibility for addressing concerns about the viral susceptibility of their residents and employees. Guidance was issued by several agencies and KAHCF disseminated this information to members via Members Only and Regulatory Alerts.

The Centers for Medicare and Medicaid Services (CMS) issued new guidance to surveyors on Quality of Life and Environment requirements and made revisions to the Infection Control guidance. Education and training was provided by KAHCF to assist members in implementing these changes to facility practices.

The Kentucky Coalition for Person Centered Care (KCPCC) continues to meet quarterly, and efforts to bring in key partners such as the Office of Inspector General (OIG), the Ombudsman Agency, the Department of Adult Independent Living, Health Care Excel, and the Kentucky Initiative for Quality Nursing Home Standards advocacy group have been successful. As part of the Association's focus on Person Centered Care, Carmen Bowman, a national expert on Person Centered Care, presented at the Annual Meeting. The KCPCC is progressing toward its mutual goal of improving the lives of residents in long term care.

The CMS Five Star Rating System continues to be scrutinized. AHCA has continued to communicate concerns to CMS and other groups, and circulated a letter to members of the National Association of State Attorney Generals requesting CMS re-evaluate the program. The House of Representatives Committee on Energy and Commerce sent a letter to the Government Accountability Office (GAO) requesting that it conducts a study on the Five Star System; and the country's highest ranking health official, Health and Human Services (HHS) Secretary Kathleen Sebelius, stated that criticism about always assigning certain percentages of facilities as "excellent" or "failing" is serious and deserves further consideration.

Kerry Harvey, interim Inspector General, gave way to a new Inspector General, Mary Begley, and KAHCF looks forward to continue working with the OIG under this new leadership. Bi-monthly meetings with the Office of Inspector General have resulted in regulatory clarifications and answers to numerous questions. This information was shared with our members.

KAHCF was involved in discussions regarding the policies and procedures for identifying residents with a Do Not Resuscitate status, and served on a clinical workgroup that made recommendations on DNR best practice guidance.

An Immediate Jeopardy Task Force was formed to review all immediate jeopardy citations. Based on the final report of this task force, an action plan was devised that includes planned education on elopement and sexual abuse.

KAHCF continues to monitor the Drug Enforcement Administration (DEA) action on the availability of controlled medications for residents, especially for pain management. AHCA worked diligently to gain recognition by key legislators on this issue. This effort resulted in a regulatory change allowing electronic prescription use by physicians who meet the necessary requirements.

The GAO issued a report on the quality of care provided in nursing homes. The GAO released a list of 580 facilities deemed as the most poorly performing nursing homes across the nation. The GAO also released a report on the weaknesses of the CMS survey process. This report criticized the survey process, stating it results in the understatement of deficiencies in nursing homes and made recommendations to CMS to address these issues. KAHCF continues to communicate with the OIG regarding these reports to remain informed of possible changes to the survey process.

The long anticipated Minimum Data Set 3.0 has arrived. The MDS 3.0 will be implemented October 1, 2010. KAHCF has scheduled multiple trainings across the state to ensure members have an opportunity to receive training on MDS 3.0.

KAHCF remains committed to being knowledgeable about regulatory issues and addressing their impact upon our membership.

# Public Policy

The major highlights of the 2010 Session of Kentucky General Assembly were more about what did not pass – the state budget – than what did pass. Although the status of Kentucky’s budget remains a current concern, KAHCF can reflect on this past legislative session and again tout our successes. We were able to successfully lobby on your behalf to address various bills that would have an impact on long term care. In this endeavor, the KAHCF lobbying team diligently worked toward keeping various bills from passing into law, as well as supported other public policy initiatives.

KAHCF’s efforts were successful in preventing a bill (HB 156) requiring nursing facilities to post their star rating as determined by the federal CMS Five Star Rating System for Nursing Homes from passing. We were also successful in opposing a bill (HB 157) that would have established minimum staffing requirements in nursing facilities. We supported a bill (HB 208) that would have provided Good Samaritan protection for all persons rendering emergency services or medical care during a declared emergency. Although this bill did not pass during this year’s session, KAHCF will continue to make our position known on tort reform issues. In addition to these bills, KAHCF monitored a resolution (SCR 192) that establishes a Medicaid Cost-Containment Task Force, which will examine ways to make Kentucky’s Medicaid program

more efficient. A more detailed account of KAHCF’s legislative endeavors is reflected in our recent annual Legislative Wrap Up.

Although KAHCF had a successful legislative session, we are already preparing for the 2011 session. We anticipate bills relating to staffing standards and Five Star posting requirements to re-emerge during the 2011 session. The 2011 Kentucky General Assembly may also consider legislation resulting from the Medicaid Cost-Containment Task Force. Regardless of the issue, KAHCF will remain active in Frankfort monitoring and pursuing our legislative and public policy agendas.

A major contributing factor to KAHCF’s success in Frankfort has been the grassroots involvement of our members. We worked closely with our members this past year to have local legislators visit their facilities. Legislators witnessed firsthand the services that are provided to the Commonwealth’s citizens. In return, KAHCF members established a strong foundation and relationship with their state legislators. Likewise, legislators utilized this relationship to guide them on public policy initiatives that effect long-term care. Whether it is through an invitation to a state legislator to visit a facility or a contribution to the KAHCF-PAC, our grassroots involvement is essential to our success.

## Your Voice — Your PAC!!

**KAHCF’S Political Action Committee** allows you to have a voice in helping to ensure quality, dignity, and concern for long term care residents. A strong PAC allows our members to support legislative candidates who represent the interest of the long term care profession and our residents.

KAHCF – PAC makes it easy for you to make your payment. You can pay your entire pledge through payroll deductions, personal check, or with your Visa or MasterCard. You can pay quarterly or in one payment. It’s your choice. Call the Association office TODAY and be a part of the KAHCF-PAC! 502.425.5000

\$500 - \$1000	Gold Member
\$300 - \$499	Silver Member
\$199 - \$299	Bronze Member
\$20 - \$99	PAC Member

## Reimbursement

Several significant reimbursement events took place during fiscal year 2010 relating to Medicaid and the state budget. Nursing facilities were paid the full Global Insight market basket increase of 1.2% effective in July 2009 for non-capital price components and a half-year RS Means increase of 1.295% to the capital component, since earlier capital appraisals incorporated inflation for the other half of the year. Regarding the budget, the Beshear administration estimated the state budget shortfall at \$1.4 billion, and the state legislature was unsuccessful in enacting a budget during the regular session. Stimulus funds from Medicaid were used to balance the state budget for fiscal year 2010. KAHCF is waiting on a state budget to determine the outcome for nursing facility payment rates to be paid in July 2010.

KAHCF worked with the Department for Medicaid Services to make several significant changes to the price-based regulations. Although these changes have not been finalized, KAHCF requested that Global Insight's "Nursing Home with Capital Market Basket" index be used for inflation. Other issues addressed included contracted services in the computation of standard wage rates for rebasing, bed reserve payment changes, and defining when Medicare eligibility is determined for purposes of billing for bed reserve days.

One of the biggest impacts to the provision of long term care services occurred with the passage of the Patient Protection and Affordable Care Act (PPACA). This Act has both Medicare and Medicaid reimbursement implications. Many of the PPACA changes and the repercussions to long term care will be determined as new regulations are promulgated to implement

most of the law's provisions. Involvement in the regulatory process will give the American Health Care Association an opportunity to offer input on these regulations. KAHCF will continue to provide updates on this important legislation and corresponding regulations.

Another important Medicare reimbursement change related to the issuance of the PPS final rule. In this rule, a number of payment system changes for fiscal years 2010 and 2011 were made. Effective October 1, 2009, the federal rates were updated by a market basket increase of 2.2%, resulting in an aggregate national payment increase of \$690 million to providers. At the same time, a recalibration of the nursing weights to correct for the projection error was implemented, resulting in a reduction of 3.3%, or \$1.05 billion in the aggregate, for a net reduction of 1.1%, or \$360 million. The PPS final rule also implemented the new the MDS 3.0 and RUG-IV payment system effective October 1, 2010.

The Pharmacy Work Group and the Billing Work Group continues to provide the Payment for Services Committee and KAHCF Board with timely information regarding issues affecting long term care. In early 2010, the U.S. Department for Health & Human Services announced it would grant relief to states on payments to Medicare for Part D costs regarding the "clawback" computation. Kentucky's portion of the "clawback" was slightly more than \$55 million.

KAHCF continues to provide the latest reimbursement information to members so providers can deliver the highest possible level of care to Kentucky's deserving residents.

## Public Affairs

Public perception about long term care continues to be a challenge for our profession. In addition to keeping our membership informed, promoting the outstanding work performed in our member facilities is one of the best ways to inform the public about the care we provide.

KAHCF has used a combination of radio, television, and print media to honor award winners and everyday examples of the compassionate work performed in our member facilities. More than 40 stories have been published, including a feature story in the Ashland Daily Independent on the Young Adult Volunteer of the Year, Nick Mulkey, and an ensuing editorial praising his volunteer work at Boyd Nursing and Rehabilitation Center. Other media efforts included multiple radio spots on the Clear Channel News Network's 80 radio stations in Kentucky. These

efforts have resulted in some daily newspapers contacting KAHCF for stories on nursing shortages and their impact on long term care.

Our commitment to promoting quality care led the Public Relations Committee and an Awards Task Force to revamp the Awards Program toward focusing on quality care. Award applications are geared to seek out quality caregivers and programs. Also, training with activity directors, new administrators, and other staff on media relations provides members with the tools to communicate with local media.

These stories and coverage of our employees, residents, and families reach thousands of readers, listeners, and viewers, and help shape a more positive image of long term care.

# Professional Development and Membership Services

## **Background**

Long term care professionals benefit from KAHCF's training, education, and networking opportunities that are offered locally, regionally, and at the state level. These trainings offer timely and state-of-the-industry information to enhance the quality of care in KAHCF's member facilities. In 2009, KAHCF offered 68 educational programs totaling 277.5 continuing education credits to more than 2,700 long term care providers.

KAHCF's continuing education courses are specifically identified to address the diverse needs of long term care caregivers, including social workers, activity directors, registered dietitians, finance professionals, and other professionals. The National Continuing Education Service of the National Association of Boards of Examiners of Long Term Care Administrators approved every continuing education course offered at KAHCF's Annual Meeting. KAHCF is also approved by the Kentucky Board of Nursing and Kentucky Board of Licensure for Nursing Home Administrators to provide continuing education courses for nurses and nursing home administrators, respectively.

## **2009 Highlights**

### ***Emergency Preparedness and H1N1***

In an effort to further prepare for natural disasters and related emergency events, KAHCF offered a long term care emergency preparedness seminar. This session informed 380 long term care professionals about emergency networks within their own communities, as well as a presentation on the official "Roll Out of the KY All Hazards Long Term Care Planning & Resource Manual." This training seminar and manual were both developed in conjunction with the universities of Kentucky and Louisville, Kentucky Department of Public Health, and Kentucky long term care providers.

### ***Advanced Directives***

The purpose of this training was to remind and update facilities about the requirements for maintaining written policies and procedures regarding advance directives for long term care residents. This training included a discussion on the resident's right to refuse or accept medical treatment, determination of death, informed consent, living wills, power of attorney, and do not resuscitate orders.

### ***Elder Abuse***

The Office of Inspector General presented this training to long term care facilities' department heads and managers. The purpose of this training was to update providers on the state and federal adult abuse and neglect statutes and regulations.

### ***Falls Prevention***

This training brought together Kentucky's long term care professionals and state surveyors in a way that promotes interaction, growth, and understanding. This seminar reviewed the Accidents and Supervision federal regulation with the intent of ensuring that nursing facilities prevent as many falls as possible.

### ***Culture Change and Person-Directed Care***

"Culture change" is the common name given to the national movement to transform older adult services. This movement is based on person-directed values and practices where the voices of elders and those working with them are considered and respected. Person-directed care values choice, dignity, respect, self-determination, and purposeful living. KAHCF sponsored nationally recognized speakers for training sessions on ways to transform the long term care culture from the traditional institutional care delivery system into a "person-directed care" delivery system, while at the same time maintaining compliance with state and federal laws.

### ***2009 Annual Meeting & Trade Show***

The 2009 KAHCF Annual Meeting & Trade Show in Louisville was again a great success with over 1,400 attendees and 184 facilities participating in more than 30 different educational sessions on five different tracks, and a sold-out trade show that included 142 exhibits and booths.

### ***2010 Spring Training***

Over 100 facilities participated in 14 different educational offerings at the spring training held in Lexington. The newly elected 2010-11 KAHCF Board of Directors was inducted at the annual Chairman's Breakfast, which featured Matthew Davies Smyth, American Health Care Association's Director of Grassroots & Member Advocacy, who gave an update on the recently enacted Health Care Reform Legislation.

In today's dynamic professional environment, KAHCF continues to identify, develop, and provide a wide variety of innovative and relevant educational and training opportunities that satisfy the needs of the long term care profession.

# KAHCF and Statewide Insurance Services Fiscal Performance

**F**inancial goals are set each year by means of a combined annual budget by the Board of Directors of KAHCF and SIS, as overhead functions are shared between the entities. During the year, staff and elected leadership work together to ensure that these goals are achieved. Through membership programming and effective fiscal management, KAHCF and SIS anticipate realizing the following achievements for the year ending June 30, 2010:

- Combined anticipated net income from operations of \$52,600 net of depreciation; Favorable variance to budgeted net loss of \$42,600 is due to cost savings in general and administrative expenses, cost savings in advertising and promotions, and additional revenues generated from Annual Meeting and Seminars.
- Anticipated Market Value of Reserve Account on June 30, 2010 is \$900,000.
  - The comeback in the financial markets positively affected performance throughout the year. Value has increased by approximately \$100,000, and the overall account performed better than the benchmarks that were set by the KAHCF investment policy.
  - No new money was added to the reserve account in anticipation of capital improvement projects for the next fiscal year.
- During the current fiscal year, KAHCF began phase IV of its capital improvement project. This entailed a new computer server and new workstations. The new table and accessories for the library and some renovation of the filing system in the workroom were not completed and have been reallocated to the next fiscal year. In addition, the HVAC system and roof will be replaced next year.

KAHCF's wholly-owned subsidiary, Statewide Insurance Services, was created in 1992 to generate additional financial resources for KAHCF and enhance membership in KAHCF.

Strategic Alliances of SIS that benefit membership are:

- ★ **Wells Fargo Insurance Services of Kentucky** – Insurance Solutions for Property, Casualty, and Health Benefits.
- ★ **Silverchair Learning Systems** – Leading provider in senior care employee training.
- ★ **Citizens Security Life Insurance Co.** – Dental and vision services for residents delivered within the facility, funded by a fully insured policy.
- ★ **Fine Tune, LLC** – To save clients time and money within troublesome expense categories such as laundering, linens, and waste disposal.

We are looking to the future to increase our financial contributions to KAHCF through these alliances.

Once again the Finance Committee and both Boards have approved the Association's Combined 2010-2011 budget, which meets the additional funding requirements of our reserve account as a hedge against any future circumstances that may require unforeseen expenditures.

Both KAHCF and its subsidiary continue to build a fiscally secure foundation. We look forward to this continued success by KAHCF allowing us to serve the needs of the membership and to advance the long term care profession into the future.

