

Vermont Legal Aid

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**Office of the Health Care Advocate**

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Quarterly Report

July 1, 2017- September 30, 2017

to the

Agency of Administration

submitted by

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Office of the Health Care Advocate



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## Introduction

The Office of the Health Care Advocate (HCA) advocates for all Vermonters by combining individual consumer assistance and consumer advocacy on issues related to health insurance and health care. We engage in a variety of consumer protection activities on behalf of the public, including appearing before the Green Mountain Care Board, other state agencies and the state legislature to promote improvements in health care access, quality and affordability.

Helping Vermonters navigate Vermont Health Connect (VHC) has been a significant task for the HCA over the last 4 years. This report shows continued improvement and stabilization at VHC. The number of VHC calls dropped by 23% this quarter. VHC cases also tend to be more complicated and time-consuming. This quarter, 39% of VHC cases were “complex interventions” that took more than two hours of an advocate’s time to resolve. With improved VHC functioning, we have been able to offer more in-depth supports for a broader number of cases.

We have continued to work on our website to make it accessible to more Vermonters. This quarter we expanded our new online health care tool. This tool gives consumers a way to get an answer to their specific health questions. It is clear to us that there are many Vermonters who have real struggles with access to care, but who do not know about our services. We also put significant work into the rate review process this quarter, arguing that the proposed insurance rates were too high and that they would result in significant loss of affordability for many Vermonters.

With the recent decision by President Trump to stop making cost-sharing reduction payments, many Vermonters are uncertain and confused. The HCA is committed to helping Vermonters navigate the health care system during this confusing and anxious time. Our goal remains the same: increase access to affordable, high quality health care for all Vermonters. Today’s uncertainty makes the role of the HCA even more essential.

A key strength of the HCA is our continued support for Vermonters through individual advocacy as well as at the legislative and administrative policy level. We are able to provide policy makers with feedback informed by our daily work with Vermonters facing challenges accessing the care they need, such as Annabelle’s experience described in the case narrative at right. We work to control unnecessary costs and make the health care system sustainable, and to ensure that Vermont consumers are heard by providers and policy-makers.

### Annabelle’s Story

Annabelle called in a panic. She had just gotten a letter from her substance abuse clinic, telling her that she was being dismissed as a patient. There was no other clinic in her area. She was taking methadone and desperately trying to get her life back together. The letter said that she was being dismissed because she had missed her counseling appointments. The advocate talked with her and found that Annabelle had missed appointments because she was overwhelmed: her landlord was trying to evict her; she had temporarily lost custody of her children; she was struggling with depression; the counselor she’d been working with had suddenly left, and so she was trying to adjust to a new counselor. All these factors caused her to miss some appointments. The HCA advocate intervened and asked the clinic to reconsider. He showed that Annabelle had a strong commitment to going to counseling. He also reviewed the clinic notes and he showed that Annabelle had tried to call ahead to cancel and re-schedule some of the missed appointments. In light of this evidence the clinic reconsidered its decision and allowed Annabelle to stay on as a patient.

## Individual Consumer Assistance

### Case Examples

These case summaries illustrate the types of problems we helped Vermonters resolve this quarter:

#### Lucy's Story

Lucy was in the hospital for about a month, and when she got home she found a letter from the State of Vermont telling her that her Medicaid was ending that week. She was also on a Medicare Savings Program—a program paying for her Medicare Part B premium and Medicare cost-sharing—which was scheduled to close as well. She needed to fill prescriptions, but her income was less than \$1000 per month. When the advocate investigated, she found that Lucy's Medicaid and Medicare Savings program were scheduled to close because Lucy had not sent in paperwork confirming her income. The State of Vermont, however, had not sent Lucy an adequate notice explaining why the programs were closing, and did not inform Lucy of her right to appeal the decision. Because of this failure the HCA advocate argued that neither program could be closed without a proper notice. The State of Vermont agreed to reinstate both programs.

#### Taylor's Story

Taylor called the HCA because he lost his job. He was on a Qualified Health Plan (QHP) with Vermont Health Connect (VHC); when he reported his job loss to VHC, he was told he was now eligible for Medicaid. Still, nothing had happened since the phone call. He did not have Medicaid, and even worse, his premium for his QHP had increased. When the advocate researched the issue, he found Taylor had been 'temporarily' approved for Medicaid. But the process for getting him on Medicaid had not been completed. His QHP also not been closed. So instead of being on Medicaid, Taylor was still on the QHP and being charged full price. The HCA advocate intervened to get the QHP closed, and to get the Medicaid activated.

#### Abby's Story

Abby called VHC to make her monthly premium payment but she was told that her plan was closed. She had an appointment scheduled with her doctor, which would be cancelled if her coverage was not active. The HCA advocate investigated and found that Abby had called VHC a couple weeks earlier because she had received a partial payment notice. The notice told her that she had not made her full monthly premium payment. She was confused because she had made the full payment on the invoice. In that call, she was told that the notice was incorrect. She was also given an amount to pay. The HCA advocate found that VHC's advice was incorrect. Abby actually was in a grace period because she was behind on her premium payments. VHC gave her a wrong amount to pay to get caught up. Her invoices also did not reflect what she actually owed. The advocate argued that VHC's errors caused Abby's coverage to be closed. VHC agreed to reinstate the coverage, which meant that Abby was able to keep her appointment with her doctor.

**Phoebe's Story**

Phoebe called the HCA because she received a bill for over \$500 for a recent mammogram. This was her first mammogram, and she was surprised by the large bill because she thought that the mammogram would be covered by her insurance. Vermont has a law that requires screening mammography, including additional views, to be covered without cost-sharing. The advocate researched Phoebe's case and found that her mammogram had been coded as diagnostic. This was why Phoebe was getting the bill for it. The advocate intervened with Phoebe's insurance carrier and explained that that the screening mammogram should be covered. The carrier agreed and they covered the mammogram, saving Phoebe more than \$500.

**Dexter's Story**

Dexter called the HCA because he did not understand his invoice from VHC. Dexter was first on a VHC plan in 2015. He closed the coverage that year because he could not afford the payments. He did not sign up again until 2017, when he chose a new plan and was told that his monthly payment would be about \$400. Dexter started making his monthly payments but his invoice showed a balance due each month. When the HCA advocate looked into it she found that VHC had been incorrectly applying payments from 2017 to his 2015 balance. This made it look like Dexter was behind for 2017. Because Dexter actively signed up for new coverage, VHC should not have been applying payments to 2015. The 2015 balance should not have carried over to the 2017 bill. The advocate was able get Dexter's 2017 payments applied to his 2017 coverage. After the payments were applied correctly Dexter was up to date and current in his payments for 2017. The advocate was also able to investigate the 2015 balance—and found that it should have been much smaller than what VHC was charging Dexter. This meant that he would be able to catch up on that balance also.

**Jerome's Story**

Jerome called because his monthly premium from VHC had almost doubled. He could not afford to pay the premium and did not understand why his premium had jumped so suddenly. The HCA advocate investigated and found that VHC had requested an income verification from Jerome, and Jerome had sent in a copy of a pay stub to verify his income. VHC, however, scanned the pay stub into the wrong record. This made it look like Jerome had not verified his income, so VHC terminated the subsidies that were helping Jerome pay his monthly premium. The advocate got the subsidies reinstated back to when they were terminated, which meant Jerome could afford to pay his premium again.

**Katelyn's Story**

Katelyn called the HCA because her Medicaid had closed and she was unsure why. When the HCA advocate investigated, he found that VHC sent her a notice telling her that Medicaid was closing. The notice, however, did not explain why Medicaid was closing. Under VHC's eligibility rules, closure notices are required to contain an explanation of why the program is being closed. The

advocate argued that the notice was not legally adequate, and asked for VHC to reinstate the coverage. VHC agreed the notice was not adequate and reinstated the coverage.

## Overview

The HCA provides assistance to consumers through our statewide hotline (**1-800-917-7787**) and through the Online Help Request feature on our website, Vermont Law Help ([www.vtlawhelp.org/health](http://www.vtlawhelp.org/health)). We have a team of advocates located in Vermont Legal Aid's Burlington office that provides this help to any Vermont resident free of charge, regardless of income.

The HCA received 825 calls<sup>1</sup> this quarter. We divided these calls into five issue categories. The figures below are based on the All Calls data. The percentage and number of calls in each issue category, based on the caller's primary issue, were as follows:

- **24.85%** (205) about **Access to Care**
- **12.24%** (101) about **Billing/Coverage**
- **1.33%** (11) about **Buying Insurance**
- **10.79%** (89) about **Consumer Education**
- **26.42%** (218) about **Eligibility** for state and federal programs
- **24.36%** (201) were categorized as **Other**, which includes Medicare Part D, communication problems with providers or health benefit plans, access to medical records, changing providers or plans, confidentiality issues, and complaints about insurance premium rates, as well as other issues.

We have a customized case management system that allows us to track more than one issue per case. This enables us to see the total number of calls that involved a particular issue. For example, although 218 of our cases had eligibility for state and federal healthcare programs listed as the primary issue, a total of 359 cases had eligibility listed as a secondary concern.

In each section of this Narrative, we indicate whether we are referring to data based on just primary issues, or primary and secondary issues combined. Determining which issue is the "primary" issue is sometimes difficult when there are multiple causes for a caller's problem. This has proven to be particularly true for Vermont Health Connect (VHC) cases. See the breakdowns of the issue numbers in the individual data reports for a more detailed look at how many callers had questions about issues in addition to the "primary" reason for their call.

The most accurate information about eligibility for state programs is in the All Calls data report because callers who had questions about Vermont Health Connect and Medicaid programs fell into all three insurance status categories.

The full quarterly report for July 1- September 30, 2017 includes:

- This narrative, which contains sections on **Individual Consumer Assistance**, **Consumer Protection Activities** and **Outreach and Education**

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<sup>1</sup> The term "call" includes cases we get through the intake system on our website.

- Seven data reports, including three based on the caller’s insurance status:
  - **All calls/all coverages:** 825 calls (compared to 861 last quarter)
  - **Department of Vermont Health Access (DVHA) beneficiaries:** 241 calls (278 calls last quarter)
  - **Commercial plan beneficiaries:** 166 calls (155 calls last quarter)
  - **Uninsured Vermonters:** 74 calls (112 calls last quarter)
  - **Vermont Health Connect (VHC):** 231 calls (300calls last quarter)
  - **Reportable Activities (Summary & Detail):** 340 activities and 209 documents (74 activities and 27)

## Priorities

### A. The HCA continued to work on the implementation of Act 25 of 2013.

The HCA has been working to ensure that Act 25 of 2013 has been fully implemented. The statute requires that screening mammography, including additional views, be covered without cost-sharing. We have launched outreach about this issue in local news and the social media. This quarter we had 11 mammography cases and have saved consumers hundreds of dollars. We expect to save more money for consumers when all the current cases are resolved. We also expect to see more cases as consumers learn about this issue.

### B. More consumers are using the HCA’s expanded Online Help Tool.



*Explore our Online Tool by clicking the hyperlink in the image above and navigating to our Health tab.*

Last quarter, the HCA developed a new online tool to help consumers get answers to their specific health care questions. The online help tool (accessible by clicking the button that appears on every page of the Vermont Law Help website, pictured at left) adds a new way to access helpful information – at all hours of the day and night.

This quarter the HCA added even more content to the tool, including a section on filing provider complaints. We had a 66% increase in page views. The most popular sections this quarter were about denials of coverage and information about Medicare and how it works.

### C. The HCA participated in outreach efforts to help H-2A farmworkers learn about the ACA and get coverage.

As part of our effort to reach vulnerable populations, HCA advocates participated in outreach to local H-2A farm workers. They visited farms in Chittenden and Addison counties to help educate workers about the Affordable Care Act. They provided education about the requirements under the ACA, answered eligibility questions about signing up for coverage, and provided assistance in signing up for coverage.

#### D. The HCA collaborated with SHIP (the State Health Insurance Assistance Program) to conduct outreach about Medicare and Health Savings Accounts (HSA).

As HSAs continue to grow in popularity with consumers, both the HCA and SHIP have encountered Vermonters who have had difficulties when transitioning to Medicare. SHIP is a federally-funded program administered by the Vermont Area Agencies on Aging to assist Medicare beneficiaries with Medicare and other health insurance issues. Once you enroll in Medicare, you can't make deposits in your HSA. Your employer also can't make deposits. The HCA and SHIP have worked with consumers surprised by this rule, and by other issues regarding the transition to Medicare. The HCA produced a four-page educational handout to answer questions and warn consumers about common problems related to HSAs and Medicare. We shared the handout around the state, and have made it available on our website at the following address: <https://vtlawhelp.org/sites/default/files/HSA-and-Medicare-handout-7-13-2017.pdf>.

#### E. Overall call volume dropped slightly this quarter.

The total call volume dropped slightly quarter (825 vs. 861). Nearly 11% of those calls involved getting consumers onto new coverage, preventing the loss of coverage, or obtaining coverage for services. We saved consumers \$130,863 this quarter. With the Open Enrollment Period for Vermont Health Connect starting November 1, 2018, the HCA anticipates a jump in VHC calls next quarter.

	All Calls (2007-2017)										
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
January	280	309	240	218	329	282	289	428	470	411	340
February	172	232	255	228	246	233	283	304	388	511	330
March	219	229	256	250	281	262	263	451	509	416	308
April	190	235	213	222	249	252	253	354	378	333	240
May	195	207	213	205	253	242	228	324	327	325	332
June	254	245	276	250	286	223	240	344	303	339	289
July	211	205	225	271	239	255	271	381	362	304	278
August	250	152	173	234	276	263	224	342	346	343	280
September	167	147	218	310	323	251	256	374	307	372	267
October	229	237	216	300	254	341	327	335	311	312	-
November	195	192	170	300	251	274	283	306	353	287	-
December	198	214	161	289	222	227	340	583	369	284	-
<b>Total</b>	<b>2560</b>	<b>2604</b>	<b>2616</b>	<b>3077</b>	<b>3209</b>	<b>3105</b>	<b>3257</b>	<b>4526</b>	<b>4423</b>	<b>4237</b>	<b>2664</b>

#### F. Calls concerning Vermont Health Connect continued to decrease.

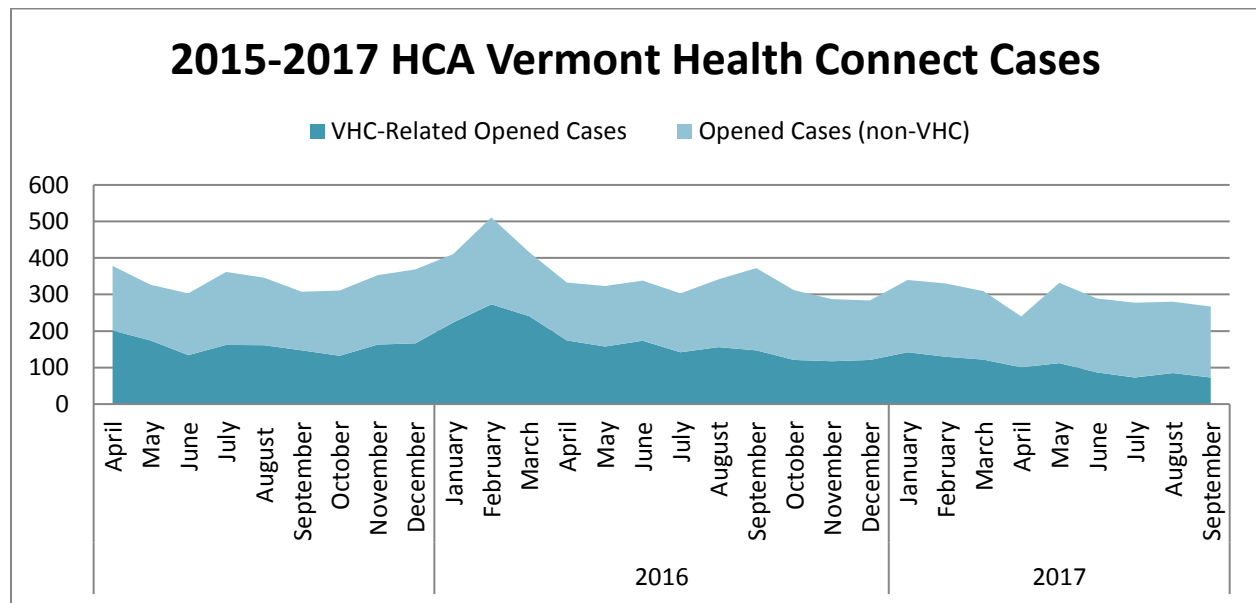
The volume of calls concerning Vermont Health Connect decreased by 23%, compared to the previous quarter (231 vs. 300). VHC calls have decreased steadily this year over the past three quarters (394 to 300 to 231). The decrease in VHC cases reflects that VHC is functioning more consistently and resolving problems more quickly. VHC cases now represent 27% of all HCA calls, which is also a drop: in previous quarters, VHC cases made up 30% to 40% of our overall cases. Of all VHC cases this quarter, 90 required



complex interventions that took more than two hours of an advocate’s time to resolve, and 38 required a direct intervention to resolve the case. With open enrollment starting on November 1, we expect a jump in Vermont Health Connect calls next quarter.

The HCA continues to resolve its cases by working directly with Tier 3 Health Access Eligibility Unit (HAEU) workers, who are trained to resolve all aspects of complex cases. In addition, the HCA meets with VHC each week to discuss cases as needed, and has regular email contact with Tier 3. This quarter, the HCA escalated 44 complex cases to Tier 3. (compared to 49 last quarter); 34 were resolved within the quarter.

This quarter, Tier 3 also expanded the types of cases that it resolves. It now works on resolving Green Mountain Care cases (VPharm, Medicaid for Aged Blind and Disabled, Medicare Saving Programs, and Medicaid Spenddowns). We have met regularly to ensure that the escalation process is working and that the cases are being resolved quickly and efficiently.



**G. Medicaid eligibility calls represented 19% of all our cases (156 calls/ 825 total calls). Consumers need assistance with all types of Medicaid.**

Medicaid eligibility was again the top issue generating calls. We had 77 calls about eligibility for MAGI (expanded) Medicaid, 45 about eligibility for Medicaid for the Aged Blind and Disabled (MABD), and 34 about Medicaid Spenddowns. MAGI Medicaid and MABD Medicaid have different eligibility and income rules, and HCA advocates assess and advise on eligibility for both programs. Consumers frequently have questions about what counts as income, who should be counted in their household, what expenses can be used to meet a Spenddown, how to complete renewal paperwork, and whether their eligibility decision is correct.

## The top issues generating calls

The listed issues in this section include both primary and secondary issues, so some of these may overlap.

### All Calls 825 (compared to 861 last quarter)

1. Complaints about providers 87 (78)
2. MAGI Medicaid eligibility 77 (84)
3. Information/applying for DVHA programs 60 (48)
4. Medicaid eligibility (non-MAGI) 45 (72)
5. Access to prescription drugs/pharmacy 41 (53)
6. Buy-in programs/Medicare Savings Programs 40 (47)
7. Fair hearing appeals 39 (44)
8. VHC invoice/billing problem affecting eligibility 37 (39)
9. Termination of insurance 36 (63)
10. Eligibility for VHC grace periods 35 (43)
11. Information about VHC 35 (31)
12. Other: Not health related 35 (50)
13. Medicaid spend down (eligibility) 34 (29)
14. VHC Premium Tax Credit eligibility 34 (55)
15. Special enrollment periods (eligibility) 33 (40)
16. Affordability affecting access to care 32 (39)
17. Hospital billing 31 (21)
18. Consumer education about Medicare 31 (37)
19. VPharm eligibility 28 (21)
20. Confusing notice 27 (20)
21. Nursing home complaint 24 (18)
22. Provider error/medical malpractice 23 (16)
23. Choosing/changing providers 22 (14)
24. Change of Circumstance 22 (34)
25. Medicaid/VHAP Managed Care billing 22 (13)
26. Provider billing problems 22 (18)
27. Hospital financial assistance 22 (23)
28. Info about HCA 21 (21)
29. HAEU mistake 21 (28)
30. Access to nursing home care 21 (14)

### Vermont Health Connect Calls 231 (compared to 300 last quarter)

1. MAGI Medicaid eligibility 66 (74)
2. VHC invoice/payment/billing problem affecting eligibility 37 (39)
3. Eligibility for VHC grace periods 35 (42)
4. Premium Tax Credit eligibility 34 (55)
5. Information about VHC 34 (28)
6. Termination of insurance 28 (48)

7. Fair hearing appeals 26 (34)
8. VHC special enrollment periods 23 (37)
9. Change of Circumstance 20 (27)
10. HAEU mistake 17 (22)
11. VHC complaints 16 (43)

**DVHA Beneficiary Calls 241 (compared to 278 last quarter)**

1. MAGI Medicaid eligibility 36 (36)
2. Complaints about providers 26 (25)
3. Information/applying for DVHA programs 19 (17)
4. Medicaid/VHAP Managed Care Billing 17 (9)
5. Medicaid eligibility (non-MAGI) 17 (35)
6. Access to prescription drugs/pharmacy 13 (21)
7. Choosing/changing providers 12 (10)
8. Buy-in programs/Medicare Savings Programs 11 (20)
9. Confusing notice 11 (4)
10. Access to specialty care 11 (8)
11. PA denial 11 (12)
12. Access to transportation 10 (10)
13. OOS Billing for state programs 10 (8)
14. Fair hearing appeals 10 (12)
15. Change of Circumstance 9 (9)
16. Provider error/medical malpractice 9 (4)
17. Medicaid balance billing 8 (9)
18. Hospital billing 8 (5)
19. Provider billing problems 8 (9)
20. Affordability affecting access to care 8 (10)
21. PA/UR taking too long 8 (7)

**Commercial Plan Beneficiary Calls 166 (compared to 155 last quarter)**

1. VHC invoice/payment/billing problem related to eligibility 22 (15)
2. Premium Tax Credit eligibility 18 (27)
3. Eligibility for VHC grace periods 17 (12)
4. Information about VHC 16 (13)
5. Consumer education about Medicare 13 (4)
6. Access to prescription drugs/pharmacy 12 (5)
7. MAGI Medicaid eligibility 11 (18)
8. Insurance coverage/contract questions 10 (5)
9. Hospital billing 9 (7)
10. Provider billing problems 9 (5)
11. Change of Circumstance 9 (17)
12. Mammography 9 (**new category added this quarter**)
13. Complaints about providers 8 (1)
14. Eligibility for special enrollment periods 8 (11)

## 15. Claim denials 8 (6)

The HCA received 825 total calls this quarter. Callers had the following insurance status:

- **DVHA program beneficiaries** (Medicaid, Medicare Savings Program also called Buy-In program, VPharm, or both Medicaid and Medicare also known as “dual eligible”): 29.2% (241 calls), compared to 32% (278 calls) last quarter
- **Medicare<sup>2</sup> beneficiaries** (Medicare only, Medicare Advantage Plans, Medicare and a Medicare Supplemental Plan aka Medigap, Medicare and Medicaid also known as “dual eligible,” Medicare and Medicare Savings Program also called Buy-In program, Medicare and Part D, or Medicare and VPharm): 26% (218 calls), compared to 27% (232 calls) last quarter
- **Commercial plan beneficiaries** (employer-sponsored insurance, small group plans, or individual plans): 20% (166 calls), compared to 18% (155 calls) last quarter
- **Uninsured**: 9% (74 calls), compared to 13% (113 calls) last quarter

## Case Results

### A. Dispositions of Closed Cases

#### All Calls

We closed 808 cases this quarter, compared to 898 last quarter:

- 31% (247 cases) were resolved by brief analysis and referral
- 29% (238) were resolved by brief analysis and advice
- 21% (168) of the cases were complex interventions involving complex analysis, usually direct intervention, and more than two hours of an advocate’s time
- 9% (73) were resolved by direct intervention, including calling an insurance company, calling providers, writing letters, gathering supporting medical documentation, etc.
- In the remaining cases (82), clients withdrew, resolved the issue on their own, or had some other outcome.

Appeals: The HCA assisted 26 individuals with appeals: 22 Fair Hearings, 1 Commercial Insurance – Internal 2<sup>nd</sup> Level appeal, 1 Medicare Part D appeal, and 2 Medicare Part A, B, or C appeals.

#### DVHA Beneficiary Calls

We closed 250 DVHA cases this quarter, compared to 273 last quarter:

- 29% (72 cases) were resolved by brief analysis and/or referral
- 27% (67) were resolved by brief analysis and/or advice
- 24% (60) were considered complex intervention, which involves complicated analysis, usually direct intervention, and more than two hours of an advocate’s time
- 15% (37) were resolved by direct intervention on the caller’s behalf, including advocacy with the carrier and providers, writing letters, and gathering medical information
- In the remaining cases clients withdrew, resolved the issue on their own, or had some other outcome.

Appeals: The HCA assisted 5 DVHA beneficiaries with appeals: 4 Fair Hearings and 1 Medicare Part D appeal.

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<sup>2</sup> Because Medicare beneficiaries can also have commercial or DVHA coverage, these Medicare numbers overlap with the figures for those categories.

### Commercial Plan Beneficiary Calls

We closed 153 cases involving individuals on commercial plans, compared to 189 last quarter:

- 33% (50 cases) were resolved by brief analysis and/or advice
- 26% (40) were considered complex intervention, which involves complicated analysis, usually direct intervention, and more than two hours of an advocate's time
- 21% (32) were resolved by brief analysis and/or referral
- 13% (20) were resolved by direct intervention on the caller's behalf, including advocacy with the carrier and providers, writing letters, and gathering medical information
- In the remaining cases clients withdrew, resolved the issue on their own, or had some other outcome.

Appeals: The HCA assisted 22 commercial plan beneficiaries with appeals: 18 Fair Hearings, 1 Commercial Insurance – Internal 2<sup>nd</sup> Level appeal, 1 Medicare Part D appeal, 1 Commercial Insurance – External appeals, and 1 Medicare Part A, B, or C appeal.

### B. All Calls Case Outcomes

The HCA helped 55 people get enrolled in insurance plans and prevented 9 insurance terminations or reductions. We obtained coverage for services for 19 people. We got 20 claims paid, written off, or reimbursed. We estimated VHC insurance program eligibility for 22 more. We provided other billing assistance to 10 individuals. We provided 447 individuals with advice and education. Nine people were not eligible for the benefit they sought, and three were responsible for the bill they disputed. We obtained other access or eligibility outcomes for 65 more people.

## Consumer Protection Activities

### Other Green Mountain Care Board Activities

In the last quarter, the HCA attended 7 regular Green Mountain Care Board meetings. Board meeting topics included Certificate of Need proceedings, an All-Payer Model Update, and an update on the Board's pay parity work.

We continued to participate in the Green Mountain Care Board's bi-weekly stakeholder meetings to develop the Board's proposed Rule 5.000: Oversight of Accountable Care Organizations (ACOs) (see below) and to provide feedback on other topics related to ACOs and Vermont's All-Payer Model (APM). We also participated in the first meeting of a new stakeholder group looking at potential changes to the Board's regulatory statutes. This meeting focused on possible changes to the Certificate of Need review process.

### Rate Review

The HCA monitors all commercial insurance carrier requests to the Green Mountain Care Board (Board) for changes to premium rates. These are usually requests for rate increases.

Two new rate filings were submitted during the quarter covering July 2017 through September 2017. The HCA filed Notices of Appearances in both of these cases. Additionally, two rate filings were pending at the beginning of the quarter.

The pending rate filings involved premium rates for the 2018 plans that MVP and Blue Cross and Blue Shield of Vermont (BCBSVT) will offer on Vermont Health Connect (VHC). These two rate filings affected approximately 80,000 members. The BCBSVT filing affected approximately 70,000 members and the MVP filing affected approximately 10,000 members.

The HCA worked with an independent actuary to review the two VHC rate filings because of the substantial number of Vermonters impacted. In addition, the HCA engaged in considerable work developing quantitative methods to assess and measure the affordability of health insurance coverage purchased on VHC.

The HCA submitted suggested questions for MVP and BCBSVT at the end of the April through June quarter. During the quarter covering July through September, the HCA's independent actuary submitted an expert actuarial report evaluating the BCBSVT filing. During the quarter, HCA represented the interests of Vermonters and argued for rate reductions at public hearings for the MVP and BCBSVT VHC filings. Also, the HCA's independent actuary testified before the Board and offered scientific justification for reductions to BCBSVT's proposed rate. After the public hearings for both VHC rate review cases, the HCA submitted post-hearing legal memoranda to the Board. BCBSVT moved to strike the use of affordability statistics and public comment from the HCA's post-hearing legal memorandum. The Board denied BCBSVT's motion.

The Board modified the proposed VHC rate filings downwards for both carriers. In the case of the MVP VHC rate filing, the Board reduced the proposed rate by nearly 50% from approximately 6.7% to 3.5%. In the case of the BCBSVT VHC rate filing, the Board reduced the proposed rate by 38% from approximately 12.7% to 9.2%. Neither MVP nor BCBSVT requested reconsideration of the Board's decisions.

The two new rate review cases filed during the quarter covering July 2017 through September 2017 are (1) MVP's Small Group Grandfathered Q1/Q2 2018 Filing and (2) MVP's Large Group PPO Q1/Q2 2018 Filing. MVP's Small Group Grandfathered Q1/Q2 2018 Filing proposes a rate increase of 4.2% and affects 1,711 members. MVP's Large Group PPO Q1/Q2 2018 Filing proposes a rate increase of 5.8% and affects 1,996 members. The HCA will submit two legal memoranda arguing that the proposed rates should be reduced to minimize the hardship imposed on Vermont households. These two memoranda will be filed in October 2017.

## **Hospital Budget Review**

The HCA participated in the Green Mountain Care Board's 2018 Hospital Budget Review process. In the last quarter, we submitted written questions to each hospital. Our questions focused on each hospital's plans for payment reform participation including financial risk management, financial incentives given to staff to increase revenue, patient centered care, and compliance with federal financial assistance requirements. We attended each hospital's budget hearing before the Green Mountain Care Board and asked each hospital questions following up on their budget presentations and our previous written questions. Further, we questioned Northwestern Medical Center about the fact that they are not in compliance with federal requirements for hospital financial assistance policies. The hospital's representatives stated that they would remedy the situation.

After the hospital budget hearings, we submitted written comments to the Board. As a part of our comments, we 1) asked the Board to deny Brattleboro Memorial Hospital's request to increase its rates

to include reserves for participation in risk based payment models, 2) asked the Board to require all hospitals to certify that they are in compliance with federal financial assistance policy requirements, and 3) asked the Board to require all hospitals to provide the status of the projects included in their 2015 energy efficiency plans. The Board's final 2018 budget orders to the hospitals included these three points.

### **Accountable Care Organization Budget Review**

This year the Board is reviewing Accountable Care Organization (ACO) Budgets for the first time. Act 113 of 2016 requires the Board to review ACO budgets starting in 2018 (for fiscal year 2019), so the Board is using this year as a trial year and reviewing the ACOs' fiscal year 2018 budgets. The first phase of the ACO budget review process took place this quarter. The HCA has a similar role in the ACO budget review process as in the Board's hospital budget review process. We reviewed the first round of budget documents and submitted written questions to each ACO in early July. The Board held a preliminary hearing in mid-July focused on the ACOs' care model. At the hearings we asked each ACO questions in follow-up to their presentations and to our written questions. Due to the incomplete nature of the ACOs' budget submissions, the Board chose to wait until November to hold a second set of hearings focused on the budgets themselves. We expect to receive updated and complete budget submissions as well as answers to our written questions from the ACOs next quarter.

### **Accountable Care Organization Rule**

This quarter the Board continued to hold regular meetings with a stakeholder group including the HCA to develop the Rule 5.000: Oversight of Accountable Care Organizations, as required by Act 113 of 2016. We submitted two more sets of written comments on the proposed rule asking for stronger oversight, consumer protections, and transparency. In our first set of comments, sent to the Board's counsel during the stakeholder process, we suggested numerous edits to the text of the rule and asked for stronger consumer protections in many areas of the draft rule. In our second set of comments, sent to the Board during its public comment period on the rule, we asked the Board to require ACOs to notify patients in writing of ACO attribution, to require ACOs to make their care models and mechanisms transparent, to protect whistleblowers, and to have the proposed rule reviewed by an independent entity with expertise in antitrust law.

A number of changes were made to the proposed rule in response to our first set of comments. No changes were made to the proposed rule based on our second set of comments. At the first Legislative Committee on Administrative Rules (LCAR) hearing on the proposed rule, which took place this quarter, LCAR did not approve the rule and asked the Board to work with the HCA to resolve some of our outstanding concerns.

### **All-Payer Model**

The HCA continued to work with DVHA and OneCare Vermont this quarter on ACO grievance and appeals processes. We met twice with OneCare and DVHA staff to discuss grievance and appeals structures

As noted above, the Board continues to hold its bi-weekly stakeholder meetings on the proposed ACO rule and other topics related to the All-Payer Model. Board staff also gave a presentation on All-Payer Model implementation at one of the Board's regularly scheduled meetings.

## Affordable Care Act Tax-related Activities

Tax-related calls from consumers declined this quarter, but tax issues are still regularly encountered in our VHC cases. This quarter, the HCA had seven cases where it helped consumers get a corrected 1095-A or 1095-B tax forms.

The HCA continued to employ a half-time tax attorney, who also staffs the Low-Income Taxpayer Clinic at VLA. This arrangement has allowed the HCA to stay up to date on tax law developments, and enables our staff to effectively field calls related to the ACA and VHC. Changes to the Treasury regulations were reflected in the HBEE rule revisions which HCA commented on. (See **Administrative Activities**.)

As in prior quarters, the HCA's tax attorney consulted with HCA advocates when particularly difficult IRS-related issues arose in HCA cases. During this quarter, the tax attorney advised the HCA on 18 technical assistance questions. She also responded to 68 technical assistance questions from Vermont tax preparers, and legal aid attorneys. Question topics included amended returns (including how to amend and whether taxpayers have a duty to amend), shared responsibility exemptions, reconciliation of advance premium tax credits, premium tax credit eligibility under federal regulations, and Modified Adjusted Gross Income. The tax attorney also gave advice regarding federal administrative law and the uncertainties created by the Trump Administration regarding the individual shared responsibility provision and ACA subsidies.

The HCA continued tax-related outreach and educational activities, which are detailed below in the **Outreach and Education** section. In particular, the HCA's tax attorney analyzed the first decisions on the premium tax credit to emerge from the U.S. Tax Court.

## Other Activities

### Administrative Advocacy

#### ✧ Access to Screening Mammography

This quarter the HCA continued to advocate for implementation of Act 25 of 2013, which requires first-dollar coverage of screening mammography including additional views. We believe that hundreds of women have been and continue to be charged cost-sharing and deductibles for call-back mammograms that should be fully covered under Vermont law. This law had an implementation date of over three and a half years ago, and yet it continues to not be followed. We are actively pursuing full implementation, which would save many Vermont women hundreds of dollars each year and reduce the financial barriers that make it harder for Vermonters to access these preventative cancer screenings.

#### ✧ Access to Treatment for Hepatitis C Virus

This quarter the HCA continued to monitor access to treatment for hepatitis C. A new drug was approved by the FDA that will allow cheaper treatment. The HCA plans to continue to advocate for access to treatment for all Vermonters with HCV. This quarter we attended one meeting of the Vermont Department of Health Hepatitis C Task Force.

#### ✧ Family and Medical Leave Insurance (FaMLI) Coalition

The HCA began participating in the FaMLI Coalition this quarter, advocating for paid family and medical leave for all Vermonters. We attended one meeting of the coalition this quarter and conducted outreach for coalition events.



### ❖ Health Care Administrative Rules (HCAR)

In 2016, the Department of Vermont Health Access (DVHA) began a multi-year revision of Medicaid rules. Eventually all Medicaid rules will be amended and adopted under the title of Health Care Administrative Rules (HCAR). In July, the HCA and representatives of two other Vermont Legal Aid (VLA) projects met informally with DVHA staff to discuss the HCAR project generally and to flag issues of concern. HCA supports the HCAR project and has committed significant resources to leading VLA's review of all HCAR rules, both in draft form and when officially proposed.

In July, the HCA and the Senior Citizens Law Project (SCLP) of VLA submitted joint comments on draft HCAR rules describing non-covered services and supervised billing. In the supervised billing rule, we requested a clarification about billing for out of state emergency services.

The non-covered services rule is an important rule for Medicaid providers and beneficiaries, because it delineates the coverage limits of Medicaid. In July we reviewed a revised draft rule, which addressed many of the problems we had identified in March 2016 comments. However, we are still concerned about certain issues, including that the rule could exclude from coverage some items that Medicaid now pays for, such as services and supports for the elderly and disabled, which are not strictly speaking "medical treatments." We urged DVHA to consult with a variety of medical professionals before publishing a proposed rule.

In September, the HCA led the SCLP, the Disability Law Project, and the Long-Term Care Ombudsman Project in commenting on draft HCAR grievance and appeal rules. The draft rule makes significant changes to Vermont rules and practice, partially in response to a March 2017 federal rule on Medicaid Managed Care. VLA submitted comments raising significant concerns regarding access to the appeals process for disabled and other vulnerable beneficiaries. We then met with DVHA staff regarding our comments. We expect to submit additional formal comments when the rule is officially proposed.

### ❖ Health Benefits Eligibility and Enrollment Rule

The HCA submitted formal comments on proposed revisions to DVHA's Health Benefits Eligibility and Enrollment (HBEE) rule. The proposed rule largely reflects updates in Vermont law and in federal regulations. However, the HCA raised some concerns with the rule. In particular, the HCA disagrees with DVHA's interpretation of the special enrollment period for pregnancy, which was created by the Vermont legislature in 2016. We believe that the language could be read to apply to current VHC enrollees as well as uninsured individuals, and that DVHA should interpret the statute in that way for public policy reasons. Pregnant women should be permitted to change health plans because of the overriding public interest in maternal and child health. We expect to raise this issue before the legislature in the future. Following submission of our comments, the HCA participated in an informal call with DVHA staff. DVHA agreed to address several of VLA's comments in the final proposed rule. At DVHA's invitation, the HCA then submitted proposed language for a new binder payment rule that was requested by another commenter.

### ❖ Request for Information on Reducing Regulatory Burdens

The HCA submitted formal comments in response to a Request for Information from the federal Department of Health and Human Services (HHS). HHS sought comments in four broad areas relating to the regulatory burden of the ACA. The HCA urged HHS to continue the protections in existing regulations, including transparency requirements and standardized benefit options. The HCA advocated strengthening the Marketplaces by continuing cost-sharing reduction payments and by limiting the

availability of limited benefit and short-term plans. Finally, we urged HHS to grant more state flexibility in enrollment periods while maintaining federal minimum standards to protect consumers.

#### ❖ **Hospital Reporting Rule**

This quarter the Vermont Department of Health (VDH) reached out to the HCA for feedback on its draft updated Hospital Reporting Rule. The HCA attended one meeting about the rule and submitted written comments to the VDH.

#### ❖ **Vermont Health Connect Escalation Path**

The HCA and VHC continued to collaborate on improving the State's escalation path for HCA cases involving complex VHC issues. The VHC escalation path now also works to resolve issues regarding Medicaid for Aged, Blind and Disabled (MABD), Medicare Savings Programs, Medicaid Spenddowns and V-Pharm. We communicate with VHC multiple times a day and meet as needed to discuss the most difficult cases.

#### ❖ **Comments on Vermont Health Connect Notices**

At VHC's request, the HCA commented on 11 notices, in an effort to make them more readable and consumer-friendly. See **Promoting Plain Language in Health Communications** below.

#### ❖ **Medicaid and Exchange Advisory Board**

This quarter, the Chief Health Care Advocate continue to co-chair and actively participate in Vermont's Medicaid and Exchange Advisory Board (MEAB). The Chief attended the one meeting of the MEAB during the quarter as well as numerous organizational meetings to plan for leadership transitions as well as plans for future meeting agendas.

#### ❖ **Secretary of State Administrative Rules Modernization Project**

The HCA met with Deputy Secretary of State Chris Winters to discuss the Secretary of State's administrative rules modernization project. HCA provided comments on the project outline, and explained the variety of ways in which the HCA and other consumer advocates interact with agency rulemaking processes.

### **Legislative Activities**

There were no official legislative meetings this quarter. The HCA continued to engage legislative leaders during the quarter to keep them up to date on the issues that the HCA was working on. In addition, the HCA partnered with a number of legislators this quarter in providing services to constituents with health care questions and concerns. The Chief Health Care Advocate also participated in forums organized by legislators in their communities.

### **Collaboration with Other Organizations**

The HCA regularly collaborates with other organizations to advance consumer-oriented policy objectives and to conduct outreach and education. We worked with the following organizations this quarter:

- American Civil Liberties Union of Vermont
- Barre Area Veteran's Council: American Legion Post 10, VFW Post 790, BPOE Elks Lodge 1535, 302 Sons Of The Civil War
- Blue Cross Blue Shield of Vermont

- Ladies First, Vermont Department of Health
- MVP Health Care
- OneCare Vermont
- SHIP (State Health Insurance Assistance Program)
- University of Vermont Medical Center
- Vermont Association of Hospitals and Health Systems
- Vermont Care Partners
- Vermont CARES
- Vermont Coalition of Clinics for the Uninsured
- Vermont Energy Investment Corporation
- Vermont Health Connect
- Vermont Medical Society
- Vermont Program for Quality in Health Care
- Villanova University Charles Widger School of Law (Procedurally Taxing)
- VNAs of Vermont
- Voices for Vermont's Children

## Outreach and Education

### A. Increasing Reach and Education through the Website

Vermont Law Help is a statewide website maintained by Vermont Legal Aid and Law Line of Vermont. The site includes a substantial Health section (<https://vtlawhelp.org/health>) with more than 250 pages of consumer-focused health information maintained by the HCA.

This quarter **new online content** was added including health topics in an online help tool. HCA advocates work diligently to keep the site updated in order to provide the latest and most accurate information to Vermont consumers.

#### Popular Web Pages

- The total number of **health pageviews increased by 26%** in the reporting quarter ending September 30, 2017 (10,738 pageviews), compared with the same quarter in 2016 (8,519 pageviews). This is noteworthy because the total number of pageviews for the entire Vermont Law Help website increased by only about 5%.
- The **top 20 health pages** on our website this quarter with change over last year were:
  - *Income Limits – Medicaid* – 2,783 pageviews (11% ↓)
  - *Health* – section home page – 1,343 (46% ↑)
  - *Vermont Choices for Care* – 464 (81% ↑)
  - *Dental Services* – 442 (16% ↓)
  - *Medical Marijuana Registry Patient Form* – 432 (168% ↑)
  - *Resource Limits – Medicaid* – 404 (168% ↑)
  - *Services Covered by Medicaid* – 324 (151% ↑)
  - *Health Insurance, Taxes and You* – 195 (30% ↓)
  - *Medicare Savings / Buy-In Programs* – 189 (66% ↑)
  - *Federally Qualified Health Centers* – 181 (57% ↑)
  - *Choices for Care Income Limits* – 178 (66% ↑)

- *Choices for Care Resource Limits* – 171 (51% ↑)
  - *HCA Online Help Request Form* – 165 (111% ↑)
  - *Long-term Care* – 165 (106% ↑)
  - *Medicaid and Medicare dual eligible* – 136 (13% ↓)
  - *Medicaid* – 122 (11% ↓)
  - *Advance Directive Forms* – 121 (195% ↑)
  - *Advance Directives and Living Wills* – 120 (14% ↓)
  - *Vermont Health Connect – main page* – 112 (203% ↑)
  - *Choices for Care Giving Away Property* – 111 (76% ↑)
- Besides the pages listed above, other **spikes in interest** in our pages included:
    - *Vermont Long-Term Care Ombudsman Project* (a new page – up from 0 last year to 72 pageviews this year)
    - *VHC Price Increases & Enrollment news item* (a new page – up from 0 to 68)
    - *How the Public Can Participate in Insurance Rate Reviews* (up from 2 to 38)
    - *Health Insurance Rate Reviews* (up from 5 to 34)
    - *Ladies First Health Program* (up from 12 to 57 pageviews)
    - *Green Mountain Care Board* (up from 7 to 31)
    - *Prescription Assistance – State Pharmacy Programs* (up from 18 to 61)
    - *How to Get Durable Medical Equipment from Medicaid* (up from 17 to 48)

### **Popular PDF Downloads**

- 17 out of 71 or **24% of the unique PDFs downloaded** from the Vermont Law Help website were on health care topics. Of those unique health-related PDF titles:
- 12 were created for consumers. The top five consumer-focused PDF downloads were:
  - *Vermont Dental Clinics Chart* (225 downloads)
  - *Advance Directive, short form* (131 downloads)
  - *Advance Directive, long form* (86 downloads)
  - *Simple 5-Step Guide to Getting DME through Medicaid* (16 downloads)
  - *Vermont Medicaid Coverage Exception Request Form* (27 downloads)
  - The advance directive forms were accessed more often this year as compared to the same period last year (217 downloads versus 65 last year).
- 4 were prepared for lawyers, advocates and assisters who help consumers with tax issues related to the Affordable Care Act. The top advocate-focused downloads were:
  - *PTC Rule Allocation Summary* (11 downloads)
  - *Low-Income Taxpayers and the Affordable Care Act – November 2014* (3 downloads)
  - *Hospital Financial Assistance Fact Sheet* (3 downloads)
- 1 covered topics related to health policy. The top policy-focused download was:
  - *Vermont ACO Shared Savings Program Quality Measures* (10 downloads)

Our *Vermont Dental Clinics Chart* is the **fourth most downloaded of all PDFs** downloaded from the Vermont Law Help website.

The *Advance Directive, short form* is the **sixth most downloaded of all PDFs** downloaded from the Vermont Law Help website.

### **New Online Help Tool Adds to Our Reach**

In June 2017 we added a new Health section to the online help tool on our website. It is found at [https://vtlawhelp.org/triage/vt\\_triage](https://vtlawhelp.org/triage/vt_triage) and can be accessed from most pages of our website. Our first Health topic was posted on June 19 and featured both Vermont Health Connect and work-based health insurance information. More sections were added between July and September (Medicare, Medicaid, complaints, finding low-cost care and long-term care), and a final section will be added in October.

Through the online help tool, the website visitor answers a few questions to find the specific health care information they need. The new feature addresses some of the most popular questions that are posed to the HCA. In addition to our extensive collection of health-related web pages, the online help tool adds a new way to access helpful information -- at all hours of the day and night. The website user can also call us or fill in our online form to get personal help from an advocate.

**144 pageviews** of informational health care results were seen by the public in the online help tool from July through September. That is a **66% increase** in pageviews over last quarter. Since we were adding new topics to the triage throughout the summer and fall, we anticipate higher numbers next quarter.

The top-viewed results were:

- Medicare - *I need help signing up for Medicare Parts A & B – hospital and medical coverage.*
- VHC - *I have been denied coverage for a medical procedure, service, drug, or equipment.*
- Medicare - *What is Medicare and what are Parts A, B, C and D?*

## **B. Other Outreach and Educational Activities**

### **Attorney General Health Care Forum (July 9, 2017)**

The Chief patriated on a panel in Burlington’s Contois Auditorium organized by the Attorney General about Health Care affordability and access to care.

### **Procedurally Taxing on Forbes.com (July 20, 2017)**

The HCA’s tax attorney analyzed the first premium tax credit decisions from the U.S. Tax Court, and explained how they illustrate common misunderstandings and pitfalls.

### **Procedurally Taxing (July 21, 2017)**

The HCA’s article analyzing U.S. Tax Court decisions was posted on the Procedurally Taxing blog after appearing on Forbes.com. Procedurally Taxing is a blog started by Villanova University Law School professors, which has an audience of hundreds of tax professionals.

The Ramble, (July 29, 2017) The HCA advocates handed out HCA material and spoke to consumers at the Ramble, a celebration of the Old North End in Burlington.

### **Midwest LITC Network (August 1, 2017)**

The HCA’s tax attorney gave a presentation to the Midwest Low-Income Taxpayer Clinic Network about the ACA problems identified in the National Taxpayer Advocate’s most recent two reports to Congress.

Press release about Act 25, Access to Screening Mammography (August 11, 2017) The HCA released a press release about the statute and how it has not been fully implemented. It urged consumers to call the HCA with questions.

Outreach to H-2A Visa workers (August 29 and August 31, 2017) HCA advocates visited area farms and spoke to H-2A visa workers about the Affordable Care Act. The advocates answered questions and gave HCA material out.

Annual Financial Wellness Day (September 20, 2017) The HCA participated in the second annual financial wellness day.

### **Hartland Health Care Forum (September 11, 2017) and Lamoille Health Forum (September 14, 2017)**

The chief participated on these two panels and presented information about the access to care challenges that impact Vermonters who call the HCA as well as resources available to assist with these challenges.

### **Stand Down (September 30, 2017)**

HCA staffed a table at Vermont Stand Down, a daylong service event for veterans. The event was organized by the Barre Area Veteran's Council: American Legion Post 10, VFW Post 790, BPOE Elks Lodge 1535, 302 Sons Of The Civil War. HCA distributed cards and brochures, and spoke with veterans and veteran service providers who had questions about HCA services. Over two dozen service organizations participated in the event.

## **C. Promoting Plain Language in Health Communications**

During this quarter, the HCA provided feedback and revisions to promote the use of plain language and increase consumers' accessibility to and understanding of important communications from the state and other health organizations regulated by the state. The HCA made plain language edits and edits/comments to improve comprehension of message and ability to resolve the problem being addressed in the following notices/letters:

- Open Enrollment Stuffer
- Open Enrollment Stuffer for September
- Open Enrollment Stuffer for October
- Open Enrollment Poster
- Partial Payment Reinstatement SYS271
- Partial Payment Reinstatement SYS272
- ADM 601
- ADM 602
- ADM 603
- EE201
- Bronze plan flier

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