

Vermont Legal Aid

Office of the Health Care Advocate

Quarterly Report

October 1, 2016-December 31, 2016

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) provides individual consumer assistance as well as consumer advocacy on behalf of Vermonters on issues related to health insurance and health care. We engage in a wide variety of consumer protection activities on behalf of the public, including before the Green Mountain Care Board, other state agencies and the state legislature to promote improvements in access, quality and affordability.

The current report highlights some of VHC's gradual improvements over 2016. Even with the improvements, many Vermonters are still struggling to access and maintain health care coverage. The HCA gets many calls from consumers unable to navigate the complex health care system.

This is a precarious moment for consumers, health care providers, and carriers given the discussions of possible repeal of the ACA and changes in Medicaid funding. The uncertainty impacts Vermont consumers and makes the role of the HCA even more essential.

The HCA provides frontline support and advocacy for Vermonters who are trying to access affordable high quality health care coverage. We work to control unnecessary costs and make the health care system sustainable. The HCA also ensures that Vermont consumers are heard by policy-makers, providers, state agencies, and in the legislature.

The full quarterly report for October 1 – December 31, 2016 includes:

- This narrative, which contains sections on **Individual Consumer Assistance**, **Consumer Protection Activities** and **Outreach and Education**
- Seven data reports, including three based on the caller's insurance status:
 - **All calls/all coverages:** 883 calls (compared to 1019 last quarter)
 - **Department of Vermont Health Access (DVHA) beneficiaries:** 269 calls (306 calls last quarter)
 - **Commercial plan beneficiaries:** 178 calls (254 calls last quarter)
 - **Uninsured Vermonters:** 126 calls (131 calls last quarter)
 - **Vermont Health Connect (VHC):** 359 calls (449 calls last quarter)
 - **Two Reportable Activities (Summary & Detail):** 75 activities and 15 documents (105 activities, 42 documents)

Highlights

- ★ Total hotline call volume decreased (883 this quarter vs. 1018 last quarter).
- ★ Vermont Health Connect calls dropped for the second quarter in a row.
- ★ The Open Enrollment Period for VHC started on November 1. The HCA has been meeting with VHC regularly to address any OEP issues.
- ★ We are resolving complex cases more quickly. The HCA escalated 77 complex cases to VHC this quarter, and 51 were resolved by the end of the quarter.
- ★ The HCA advised on 38 appeals this quarter. Of the 38 appeals, 27 were fair hearings.
- ★ The HCA saved consumers \$297,584.82 in 2016.

- ✦ In December, the Vermont Supreme Court issued a decision agreeing with the HCA position that a Vermont consumer was eligible for Advanced Premium Tax Credit (APTC). The Human Services Board granted APTC to the spouse of an individual receiving Medicaid because he was a former foster child, and VHC appealed the decision. The spouse seeking APTC was unrepresented. The HCA argued that the consumer was eligible for APTC because her ability to enroll in her husband’s employer-sponsored plan was conditioned on his enrolling - and that condition was unmet.
- ✦ The HCA successfully advocated for changes to Medicaid’s restrictive coverage criteria for hepatitis C. Medicaid’s Drug Utilization Review Board (DURB) voted in December to recommend covering treatment for patients with less severe liver disease, and for patients regardless of their substance use history. DVHA has accepted the DURB’s recommendations. Once implemented, the changes will allow more Vermonters to access curative treatments for hepatitis C.
- ✦ The HCA continued to promote the use of plain language in VHC notices, so the information is more accessible and understandable to consumers.
- ✦ The number of people who used our website to find information and guidance on health care issues continued a pattern of strong growth with 48% more page views this quarter, compared with the same period in 2015.
- ✦ The number of people seeking information from our website about [dental services](#) increased significantly (72%) compared with the same period last year. Our Vermont Dental Clinics Chart was again the third most frequently downloaded of all PDFs downloaded from the Vermont Law Help website, and the top health PDF download.
- ✦ An increasing number of Vermonters are seeking out information about Medicaid for Children & Adults (MCA) and Dr. Dynasaur on our website. Half of the top 20 health topics focused on Medicaid or long-term care Medicaid (Choices for Care).

Individual Consumer Assistance

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, 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 883 calls¹ 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:

- **23.56%** (208) about **Access to Care**
- **15.06%** (133) about **Billing/Coverage**
- **1.81%** (16) about **Buying Insurance**
- **11.10%** (98) about **Consumer Education**
- **30.92%** (278) about **Eligibility** for state and federal programs

¹ The term “call” includes cases we get through our website.

- **17.55%** (155) 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 273 of our cases had eligibility for state health care programs as the primary issue, a total of 610 cases had some eligibility issue listed as a secondary issue.

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.

Top Problem Areas

A. The HCA’s overall call volume was lower than the last quarter, and lower than the call volume during the same quarter in 2015. The call volume was more in line with pre-VHC volume.

Total call volume was lower than last quarter (883 vs. 1018). It was also lower than the call volume compared to the same quarter last year (883 vs. 1033). Our call volume is usually highest from January to March because most health care plans end on December 31, with a new plan year starting on January 1. The renewal process can trigger problems. The call volume appears to be returning to the pre-VHC call volume (883 this quarter vs. 950 calls for the same quarter in 2013).

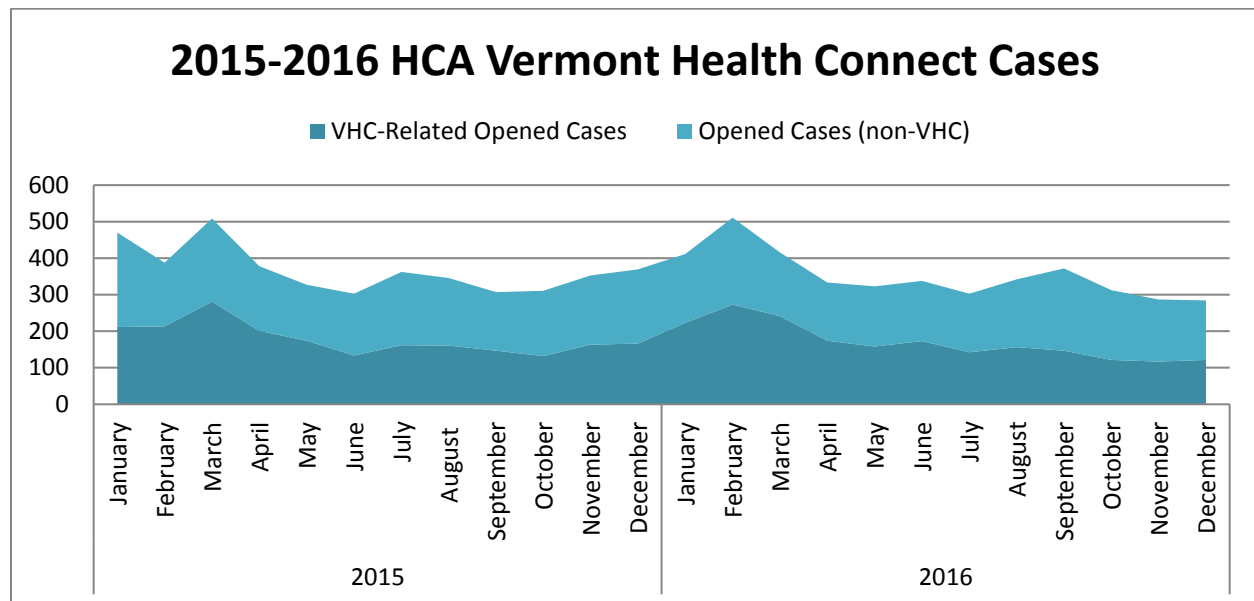
	All Calls (2006-2016)										
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
January	313	280	309	240	218	329	282	289	428	470	411
February	209	172	232	255	228	246	233	283	304	388	511
March	192	219	229	256	250	281	262	263	451	509	416
April	192	190	235	213	222	249	252	253	354	378	333
May	235	195	207	213	205	253	242	228	324	327	325
June	236	254	245	276	250	286	223	240	344	303	339
July	183	211	205	225	271	239	255	271	381	362	304
August	216	250	152	173	234	276	263	224	342	346	343
September	181	167	147	218	310	323	251	256	374	307	372
October	225	229	237	216	300	254	341	327	335	311	312
November	216	195	192	170	300	251	274	283	306	353	287
December	185	198	214	161	289	222	227	340	583	369	284
Total	2583	2560	2604	2616	3077	3209	3105	3257	4526	4423	4237

B. Vermont Health Connect call volume dropped by 20% compared with last quarter. The VHC escalation path is resolving complex cases more quickly and efficiently.

VHC call volume this quarter was 20% lower than last quarter (359 vs. 449), and there was a significant drop (22%) compared with the same quarter last year (359 for 2016 vs. 461 for 2015).

Even though VHC call numbers dropped, consumers are still having significant problems. VHC cases still represented 41% of the HCA’s total calls in 2016. Of all VHC cases, 29% required complex interventions that took more than two hours of an advocate’s time to resolve (103 complex interventions out of 359 total VHC cases). We also remain concerned about consumers who are trying to navigate VHC to resolve problems on their own.

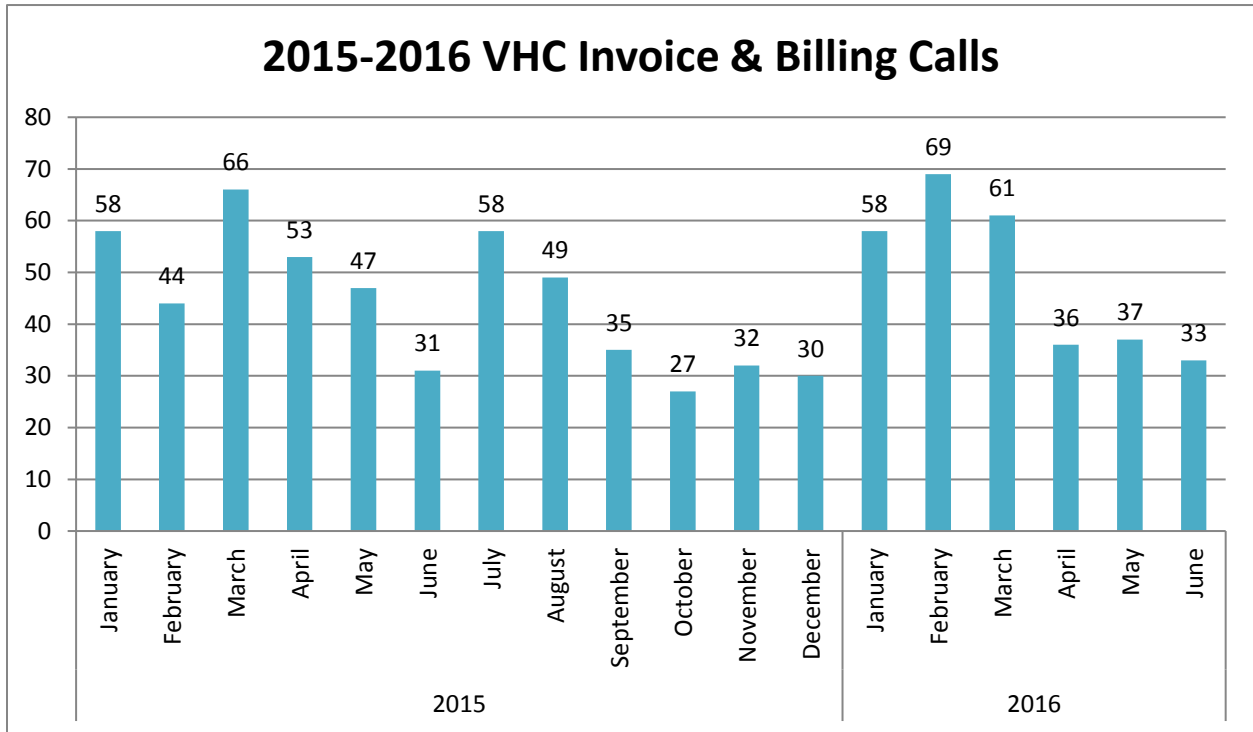
The HCA has been using VHC’s new escalation path for about six months now. The process allows the HCA to work directly with a Tier 3 Health Access Eligibility Unit (HAEU) worker, who is trained to resolve all aspects of complex cases. In addition, the HCA meets with VHC each week to discuss cases as needed, and has regular email contact with Tier 3. During the first quarter of 2016, before the new escalation path was launched, the HCA was carrying 75-80 complex cases per week. That number gradually decreased to 40-50 per week, and now, because the new escalation process allows complex cases to be resolved more quickly and efficiently, the HCA generally carries fewer than 20 unresolved complex cases per week. This quarter, the HCA escalated 77 complex cases, and 51 were resolved within the quarter.



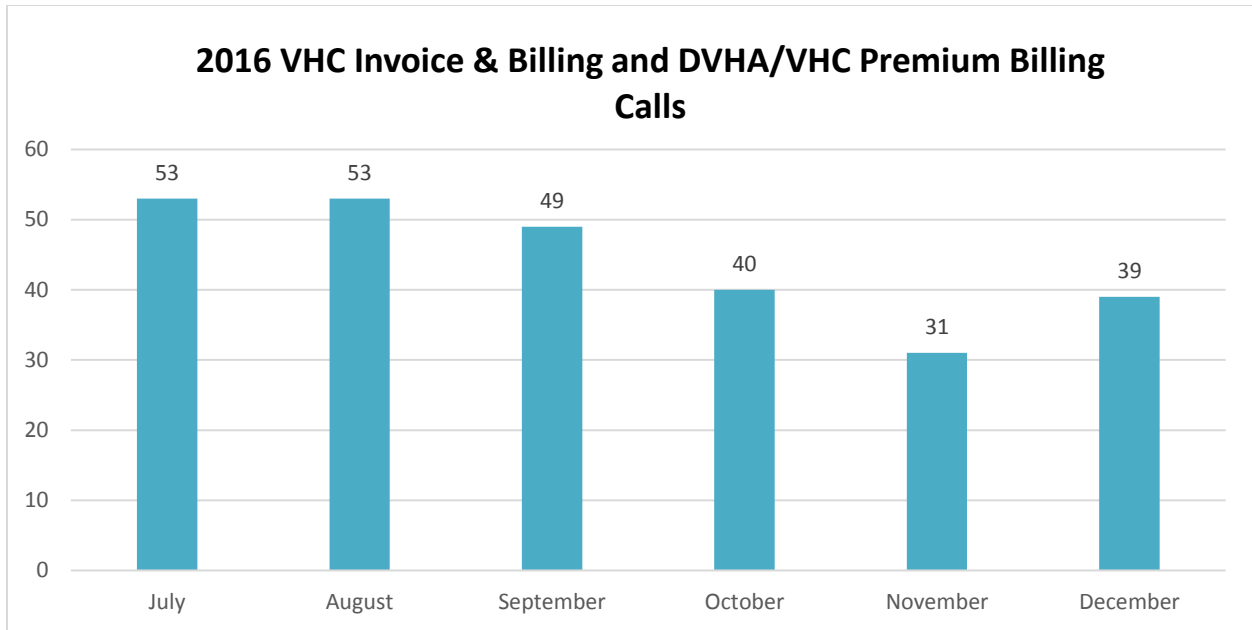
C. Vermont Health Connect invoice and premium cases decreased by 26%.

VHC continued to improve its ability to generate accurate and timely invoices for consumers. The HCA has also seen improvement in VHC’s ability to resolve billing problems. This quarter, the HCA received a total of 117 calls about billing issues (52 about DVHC/VHC premium issues and 65 about VHC invoice/billing problems affecting eligibility). Last quarter the HCA received 158 calls about billing issues (99 about DVHA/VHC premiums issues, and 59 about VHC invoice/payment billing problems affecting eligibility). When we combine those two categories of billing issues, billing was

the second most common issue for the quarter.² The specific billing problems included inaccurate invoices, payments not applied correctly, and payments not reflected on the invoices. The billing problems can easily turn into access to care cases when a mistake in the invoice causes a consumer’s coverage to be erroneously cancelled.

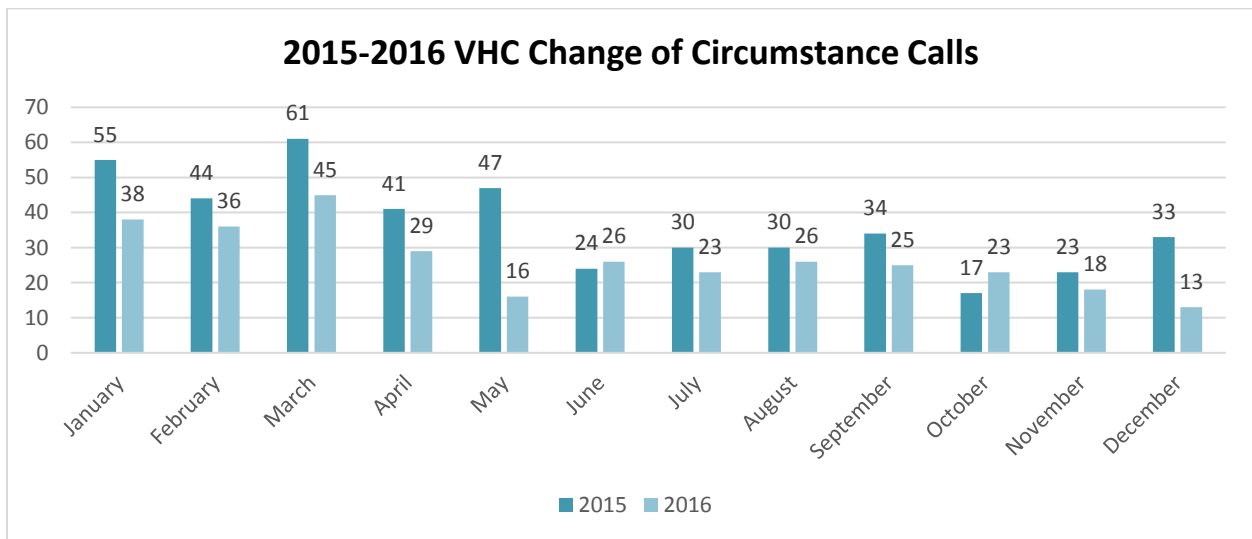


² In the third quarter the HCA revised how we code VHC billing cases. Now cases with general VHC billing problems are billed under DVHA/VHC premium issues. If the billing problem directly impacts eligibility, it is billed under VHC invoice/payment issues affecting eligibility. This change resulted in a drop in the number of cases coded for VHC invoice/billing problems affecting eligibility and an increase in the cases coded for general VHC billing problems. Both codes represent VHC billing problems. As a result, the data can no longer be represented in one chart.



D. Vermont Health Connect Change of Circumstance calls decreased.

The HCA received 54 Change of Circumstance calls this quarter, compared with 74 last quarter (in a 27% decrease). VHC has been resolving the Change of Circumstances cases much more quickly, and we are getting fewer calls from consumers complaining about processing delays. As a result, the HCA has had to escalate far fewer Change of Circumstance cases (318 total for 2016 vs. 439 for 2015).



E. Calls about Premium Tax Credit (PTC) eligibility jumped by 22%.

The HCA received 95 calls from consumers related to their eligibility for the Premium Tax Credit (PTC), compared to 78 last quarter. It is unsurprising that there was an increase in calls in this area. With the start of the Open Enrollment Period on November 1, consumers were reviewing plan selection and reporting changes. The changes have the potential of impacting eligibility for PTC. These calls are

relatively complex because the HCA advises consumers regarding their eligibility for PTC. If consumers are eligible, the HCA also calculates how much PTC they should be receiving. If consumers receive more PTC than they are eligible for, they may have to pay some or all of it back when they file their taxes. This process is called reconciliation. The HCA received 39 calls involving reconciliation this quarter.

F. Calls about V-Pharm and Medicare Savings Program eligibility increased.

The HCA had 42 cases involving V-Pharm eligibility compared to 29 last quarter. Open enrollment for Part D plan runs from October 15 to December 7 each year. It makes sense that when consumers were reviewing their Part D plan, they would also have questions about their eligibility for V-Pharm. V-Pharm helps reduce Part D expenses. The HCA had 55 cases about Medicare Saving Program (MSP) eligibility compared to 48 last quarter. The MSPs help reduce out-of-pocket Medicare costs by paying for the Part A and/or the Part B premiums for eligible beneficiaries. The HCA also had 36 cases where we gave advice on Medicare eligibility.

G. The top issues generating calls

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

All Calls 883 (compared to 1018 last quarter)

1. MAGI Medicaid eligibility 130 (126)
2. VHC Premium Tax Credit eligibility 95 (78)
3. Complaints about providers 75 (81)
4. VHC invoice/billing problem affecting eligibility 65 (59)
5. VHC complaints 59 (63)
6. Information/applying for DVHA programs 59 (58)
7. Access to prescription drugs 56 (76)
8. Buy-in programs/Medicare Savings Programs 55 (48)
9. VHC Change of Circumstance 54 (74)
10. DVHA/VHC premium billing 52 (99)
11. Medicaid eligibility (non-MAGI) 44 (52)
12. HAEU mistake 43 (37)
13. VPharm eligibility 42 (29)
14. Consumer education about IRS reconciliation 39 (32)
15. Affordability affecting access to care 38 (25)
16. Consumer education about Medicare 36 (41)
17. Confusing notice related to eligibility 35 (45)
18. Information about VHC 33 (27)
19. Special Enrollment Periods (eligibility) 32 (49)
20. Medicaid spend down (eligibility) 31 (21)
21. VHC renewals (eligibility) 27 (6)

Vermont Health Connect Calls 359 (compared to 442 last quarter)

1. MAGI Medicaid eligibility 121 (116)
2. Premium Tax Credit eligibility 94 (75)

3. VHC invoice/payment/billing problem affecting eligibility 65 (55)
4. VHC complaints 59 (62)
5. Change of Circumstance 52 (65)
6. DVHA/VHC premium billing 48 (94)
7. Termination of insurance 43 (50)
8. HAEU mistake 39 (36)
9. Consumer education about IRS reconciliation 39 (31)
10. Information about VHC 32 (22)
11. VHC renewals (eligibility) 27 (6)

DVHA Beneficiary Calls 269 (compared to 300 last quarter)

1. MAGI Medicaid eligibility 58 (46)
2. Information/applying for DVHA programs 29 (26)
3. Complaints about providers 27 (33)
4. Medicaid eligibility (non-MAGI) 20 (20)
5. Confusing notice 16 (14)
6. VHC Premium Tax Credit eligibility 16 (9)
7. Buy-in programs/Medicare Savings Programs 16 (9)
8. Change of Circumstance 15 (19)
9. Provider billing problems 15 (1)
10. Medicaid/VHAP Managed Care Billing 14 (11)
11. VPharm eligibility 13 (10)
12. Access to dental care 10 (6)
13. Home health 10 (1)
14. PA Denial 10 (7)
15. Transportation 9 (18)
16. Medicaid Renewal/Review 9 (14)
17. Consumer education about Medicare 9 (10)

Commercial Plan Beneficiary Calls 178 (compared to 252 last quarter)

1. Premium Tax Credit 51 (46)
2. VHC invoice/payment/billing problem related to eligibility 36 (48)
3. DVHA/VHC premium billing 30 (69)
4. Consumer education about IRS reconciliation 26 (22)
5. VHC complaints 24 (37)
6. Change of Circumstance 22 (40)
7. VHC renewals (eligibility) 21 (3)
8. MAGI Medicaid eligibility 19 (23)
9. HAEU mistake 14 (13)
10. Grace periods – VHC 12 (28)

H. The top issues generating calls

The HCA received 883 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”): 30% (265 calls), compared to 31% (316 calls) last quarter
- **Medicare³ 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): 30% (316 calls), compared to 26% (266) last quarter
- **Commercial plan beneficiaries** (employer-sponsored insurance, small group plans, or individual plans): **18%** (159), compared to 22% (220) last quarter
- **Uninsured: 14%** (124) of the calls, compared to 13% (132) last quarter

Recommendations for Vermont Health Connect

1. Continue to work on making all VHC notices more readable, accurate, timely and understandable.
2. Continue to work on the accuracy of advice from both the call center and HAEU (Health Eligibility Access Unit). The call center is the main source of contact with VHC for most consumers.
3. Continue to work on the billing system, so consumers receive timely and accurate invoices.
4. Continue to support and train navigators and assistors and work with other community stakeholders.

Case Results

A. Dispositions of Closed Cases

All Calls

We closed 913 cases this quarter, compared to 1,059 last quarter:

- 28% (256 cases) were resolved by brief analysis and advice
- 27% (249) of the cases were complex interventions involving complex analysis, usually direct intervention, and more than two hours of an advocate’s time
- 26% (240) were resolved by brief analysis and referral
- 11% (103) were resolved by direct intervention, including calling an insurance company, calling providers, writing letters, gathering supporting medical documentation, etc.
- In the remaining cases (65), clients withdrew, resolved the issue on their own, or had some other outcome.

Appeals: The HCA assisted 38 individuals with appeals: 27 Fair Hearings, 2 Medicaid MCO Internal appeals, 2 Commercial Insurance – Internal 2nd Level appeals, 2 Commercial Insurance – Internal 1st Level appeals, 4 Commercial Insurance – External appeals, and 1 Medicare Part A, B, or C Appeal.

³ Because Medicare beneficiaries can also have commercial or DVHA coverage, these Medicare numbers overlap with the figures for those categories.

DVHA Beneficiary Calls

We closed 274 DVHA cases this quarter, compared to 315 last quarter:

- 36% (99 cases) were resolved by brief analysis and/or advice
- 24% (67) of the cases were considered complex intervention, which involves complicated analysis, usually direct intervention, and more than two hours of an advocate's time
- 23% (62) were resolved by brief analysis and/or referral
- 13% (35) of the cases were resolved by direct intervention on the caller's behalf, including advocacy with DVHA 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: 3 Fair Hearings and 2 Medicaid MCO Internal appeals

Commercial Plan Beneficiary Calls

We closed 284 cases involving individuals on commercial plans, compared to 345 last quarter:

- 22% (62 cases) were resolved by brief analysis and/or advice
- 14% were resolved by brief analysis and/or referral
- 39% (112) were considered complex intervention, which involves complicated analysis, usually direct intervention, and more than two hours of an advocate's time
- 19% (55) 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 34 commercial plan beneficiaries with appeals: 4 Commercial Insurance – External appeals, 2 Commercial Insurance – Internal 1st Level appeals, 2 Commercial Insurance – Internal 2nd Level appeals, 25 Fair Hearings, and 1 Medicaid Part A, B, or C appeal.

All Calls Case Outcomes

The HCA helped 91 people get enrolled in insurance plans and prevented 14 insurance terminations or reductions. We obtained coverage for services for 20 people. We got 20 claims paid, written off, or reimbursed. We estimated VHC insurance program eligibility for 34 more. We provided other billing assistance to 28 individuals. We provided 499 individuals with advice and education. Four people were not eligible for the benefit they sought, and five were responsible for the bill they disputed. We obtained other access or eligibility outcomes for 82 more people.

B. Case Examples

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

Lisa was nearly out of her insulin when she discovered that her Medicaid had closed. She called the State of Vermont and had been told that she would need to re-apply for Medicaid to see if her

family was still eligible. The family would need to have their income verified—this meant that Lisa would need to get pay stubs to prove the family’s income. The whole process could take weeks—and by that time Lisa would be out of insulin and unable to pay for it. The HCA advocate investigated why Lisa’s Medicaid had closed and found that the State of Vermont had failed to send a termination notice. Before the State of Vermont can close someone’s Medicaid, the State needs to give prior notice. It did not send Lisa any notice that her Medicaid was about to close. The HCA advocate pointed out the error—and the State of Vermont reinstated the Medicaid coverage for another month. This gave Lisa enough time to complete a new Medicaid application—and meant that she was able to fill her prescriptions. This quarter, MAGI Medicaid eligibility was the top issue for all calls. The HCA advocates worked on 130 cases about Medicaid eligibility. They advised 27 families on Medicaid renewals, and they prevented 14 families from having their insurance terminated.

Mary called the HCA because her Social Security check had dropped to less than \$500 per month. She had received a letter from the Social Security Administration telling her that the State of Vermont would no longer be paying for her Medicare Part B premium. This meant that the Part B premium would be coming out of her monthly Social Security check. Mary did not understand why she was no longer eligible—her household’s income had actually decreased. The advocate found that Mary and her husband had both been on a Medicare Savings Program (MSP), which meant that the State of Vermont paid the Medicare Part B premium for them. They had also been on V-Pharm 1, which helped keep their co-payments for prescriptions low. They had re-applied for those programs, but the State of Vermont had found them ineligible. The advocate discovered that the State had made an error in counting the household income. It was counting income from a business that Mary and her husband were no longer operating. Mary and her husband had also received a one-time lump sum payment, and this was being counted as a recurring payment. When their income was counted correctly, both Mary and her husband were found eligible and were put back on the programs to the date of application. The HCA worked on 55 cases on MSP eligibility this quarter, and advised 42 households about V-Pharm eligibility this quarter.

Katherine called the HCA because she could not afford her monthly health insurance premium. She had been on Medicaid earlier in the year, but VHC had reviewed her eligibility and found her ineligible for Medicaid. She was enrolled in a Qualified Health Plan (QHP) on VHC, but it was too expensive for her. Katherine had heart surgery scheduled, and she could not have a lapse in her coverage. When the advocate looked at Katherine’s information, she found that VHC was counting her income incorrectly. Katherine was a home care provider, which meant that she cared for a disabled individual who lived in her home. She was receiving a ‘difficulty of care’ stipend each month for this care. The IRS considers Katherine’s stipend to be non-taxable income. This means that VHC should not have included it when it calculated Katherine’s eligibility for Medicaid. When the income was properly calculated, Katherine was found eligible for Medicaid. The HCA advocate was able to get the Medicaid reinstated back to the time that it was closed, and Katherine was refunded the premiums she paid for her QHP. The HCA had 43 cases involving eligibility mistakes this quarter, and it saved consumers \$61,393 this quarter.

When Paul received his invoice for his QHP on VHC for 2017, the amount was more than double what he had been paying. He could not afford to pay that amount. When the advocate investigated, she found that he had been found ineligible for premium tax credits (PTC). The PTC helped reduce his monthly premium by hundreds of dollars a month. VHC said that the reason he was ineligible was that he had failed to file his taxes. If a consumer receives PTC, they need to file taxes and

“reconcile” the amount of PTC that they received during the year. During that process, the IRS checks to see if the consumer received the correct amount of PTC based on their yearly income. If you do not file your taxes and reconcile, you will not be able to get PTC the following year. Paul had filed his taxes. That meant he was eligible for PTC. When VHC did his renewal, however, an error showed he had failed to file taxes and reconcile. The HCA advocate pointed out the error, and VHC restored Paul’s subsidies. After his subsidies were restored, his premium was reduced by over \$250 dollars per month. The HCA advises consumers all year round on tax issues related to the ACA. This quarter, it advised 39 households about IRS reconciliation. The HCA also worked on 95 cases related to PTC eligibility, which is the second-highest issue generating calls.

Elizabeth called the HCA because she had an appointment with a specialist, but she did not have a way to get to that appointment. She was not able to drive and did not have a car. In the past, she always relied on Medicaid transportation to get to her appointments. When she tried to schedule a ride, however, she was told that she was no longer had Medicaid. She had filled out a new application, and had believed she had been all set. Then, she had received a letter asking her to fill out another application. So she had filled out a second application, but she was still being told that she did not have coverage. The HCA advocate looked into the problem, and found that Elizabeth had completed the wrong Medicaid application the first time she applied. Elizabeth is eligible for Medicaid for the Aged, Blind and Disabled (MABD). This type of Medicaid has a different application than the Medicaid on VHC (Medicaid for Children & Adults). The advocate found out that the State of Vermont did have Elizabeth’s second and correct application, but it had not been processed yet. The advocate intervened and asked for that application to be processed immediately. It was processed and Elizabeth was found eligible for MABD. She was able to schedule her ride and get to her appointment. The HCA worked on 44 MABD Medicaid eligibility cases this quarter. It also intervened and advised on 9 Medicaid transportation cases.

John needed to pick up his heart medication, but when he went to the pharmacy he found out that he was no longer on Medicaid. He could not afford to pay for his medication. When he called the State of Vermont, he found that his Medicaid had been closed because he had not filled out his Medicaid renewal. The State of Vermont had sent him renewal paperwork, but it had been sent to an old address. The mail had not been forwarded, and John never received it. John was now homeless, unemployed and had no income. The HCA advocate intervened and argued that John should be reinstated because of the error in sending the renewal paperwork. VHC reinstated the coverage the same day. This meant that John was able to pick up his heart medication. He also had time to fill out a new Medicaid application. The HCA worked on 56 cases this quarter where consumers encountered problems getting their prescription drugs.

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Consumer Protection Activities

A. Rate Reviews

The HCA monitors all commercial insurance carrier requests to the Green Mountain Care Board for changes in premium rates. These are usually requests for rate increases. One new rate review case was filed at the end of the quarter by Cigna. It covers the insurer's manual rating formula for large employer groups. The Board and the HCA will review this filing in the next quarter.

The HCA participated in two pending MVP rate review cases during the quarter. The first shows the premium rate development for MVP's large group EPO/PPO products for the first and second quarters of 2017 including high deductible health plans and non-high deductible plans. The proposed rates in this filing will affect approximately 2,234 Vermonters. The HCA argued that the Contribution to Surplus should be reduced from 2% to 1% but the Board approved the filing without modification. The second MVP filing included proposed quarterly rate increases for MVP's small group grandfathered EPO/PPO product portfolio. This is a closed block of business. As of June 2016, 1,933 members were enrolled in the plans affected by this rate filing. The proposed filing would result in a 9% annual rate increases for first quarter 2017 group renewals, and a 10.5% increases for second quarter group renewals. The HCA asked the Board to eliminate the Contribution to Surplus for the filing but the Board approved the request as filed.

The HCA also continued its work as a party in the Vermont Supreme Court's review of the Board's December 2015 decision disapproving the rate request for five plans offered by the Agriservices Association. Agriservices, an association for farmers, used MVP's large group Minimum Premium Plan funding arrangement for grandfathered plans with a contract renewing with a December 1, 2015 effective date. MVP requested a very large average annual rate increase of 26.9%. The HCA asked the Board to disapprove the requested rates and the Board's December 2015 decision disapproved the increase. In January 2016, MVP asked the Board to reconsider its decision. The HCA opposed this request and the Board refused to change its initial decision. MVP then appealed the Board's decision to the Vermont Supreme Court. MVP claimed that the criteria used by the Board in denying the rate increase were unconstitutionally vague or in the alternative that the Board's findings of fact and conclusions were not consistent with the standards in the rate review statute. The HCA asked the Supreme Court to find the statute constitutional and uphold the Board decision, and the Solicitor General also asked the Court to affirm the Board's decision. The Supreme Court issued its decision on September 23, 2016. It found the rate review statute constitutional but agreed with MVP's argument that the Board's conclusions of law were not supported by specific findings of fact that related to the statutory criteria. The Court sent the case back to the Board for new findings.

MVP and the HCA both submitted proposed findings of fact and conclusions of law for the Agriservices case in October. The Board issued its Amended Order and Decision in November. The Board again disapproved the requested rate increase in the new Order. MVP and Agriservices decided not to continue to offer the Agriservices products in 2017, so there was no new filing during 2016.

B. Certificate of Need

In October, the HCA submitted a notice of intervention in response to Manchester Emergency Center's proposal to open a new emergency/urgent care facility. The medical center withdrew the application in December.

During the last quarter, the HCA continued to participate in the Board's ongoing review of Green Mountain Surgery Center's proposal to create an ambulatory surgery center. When the Board asked the

center to submit information on project investors, the center asked that the information be kept confidential from the interested parties in the matter. The center argued that the information could be used to retaliate against the physician investors because the interested parties in this matter included the Vermont Association of Hospitals and Health Systems and Northwestern Medical Center, both of which potentially employ some of the investing physicians. The Board granted the confidentiality request. The HCA successfully argued that it should be exempt from this ruling because of the HCA's important role protecting the interests of Vermont consumers and because the HCA does not pose a threat of retaliation against the physician investors. The Board agreed with the HCA and ruled that the HCA will continue to be given access to all documents in the matter.

C. Other Green Mountain Care Board Activities

In the past quarter, the HCA attended eight weekly Board meetings and one advisory committee meeting.

Hospital Budget Review

The HCA took advantage of a new opportunity in 2016 to protect consumer interests through an expanded role in the Green Mountain Care Board's Hospital Budget Review process. This new role developed from changes to Act 152, which gave the HCA the right to pose written questions to Green Mountain Care Board staff and to the hospitals regarding the hospitals' budget submissions, and to ask questions and provide testimony at the Hospital Budget hearings, in addition to providing written comments after the hearings. In our role, we focused on the hospitals' community benefit activities, health care reform work to lower costs and improve quality, services related to substance abuse and mental health support, and justifications for their requested budget increases. In the last quarter, we attended one Green Mountain Care Board hospital budget hearing on Copley Hospital's proposed revisions to its FY17 budget. In December, we submitted formal comments to the Board about the Board's draft rule regarding physician transfers and acquisitions. We pointed out that the draft rule was not clear that the rule should only apply to transfers and acquisitions within the Vermont health care system. In response to our comment, the Board changed the language.

Accountable Care Organization Rule

Last quarter the Board convened a stakeholder group to begin working on the Accountable Care Organization Rule required by Act 113 of 2016. The HCA attended the first meeting of the group which occurred in December.

D. All-Payer Model

During the last quarter the Green Mountain Care Board, Agency of Administration, and Agency of Human Services proposed and then signed an all-payer model (APM) agreement for the state, which will be implemented by a unified Accountable Care Organization (ACO). The HCA reviewed the proposed agreement and submitted formal comments to the Administration and the Board. We also submitted a letter of support for the model to Governor Shumlin that expressed agreement with the model's goals to increase quality and lower costs, as well as significant concerns about its implementation. The letter expressed that our support of the APM is contingent on the ways in which important issues of concern to consumers, including robust regulatory structures, are addressed in the model's implementation, as well as on adequate funding of the state's Medicaid program. We detail our consumer protection concerns about the APM in our paper: *Consumer Principles for Vermont's All-Payer Model*.

E. Vermont Health Care Innovation Project (SIM Grant)

This quarter the HCA continued to participate in the Vermont Health Care Innovation Project (VHCIP), which is funded by a federal State Innovation Model (SIM) grant. The prior Chief Health Care Advocate was a member of the VHCIP Steering Committee until her retirement on August 31. The Steering Committee had its final two meetings this quarter which the HCA's policy analyst attended in the Chief's absence. The HCA participated, along with representatives from other projects of Vermont Legal Aid, as "active members" in five of the six VHCIP work groups: Payment Model Design and Implementation, Practice Transformation, Health Data Infrastructure, Disability and Long Term Services and Supports, and Population Health. This quarter we participated in six VHCIP work group meetings, including the final meetings of the Payment Model Design and Implementation work group, the Health Data Infrastructure Work Group, and the Population Health work group.

We continued to monitor the activities of the VHCIP Core Team and attended one Core Team meeting as an interested party. The HCA is a participant in the VHCIP Self-Evaluation Committee and attended one meeting of the committee this quarter. The HCA is a participant in the VHCIP Sustainability Planning Group and attended three meetings of the group this quarter. We also participated in one VHCIP webinar on the Shared Savings Program Year 2 results, and one meeting convened by the VHCIP and the Administration about Delivery System Reform grants.

F. Affordable Care Act Tax-related Activities

During this quarter the HCA continued tax-related assistance, advocacy, and outreach efforts. We participated in a stakeholder workgroup on QHP renewals and open enrollment issues, to ensure that consumers experienced as smooth a transition as possible from 2016 to 2017 plans. We commented on notices to consumers affecting their eligibility for tax credits. The HCA also continued to receive and escalate cases with VHC involving APTC reconciliation and forms 1095-A.

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.

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 9 technical assistance questions and accepted one tax case referred from the HCA. She also responded to 32 technical assistance questions from assisters, Vermont tax preparers, and legal services attorneys in other states. This quarter saw more questions about exemptions from the ACA penalty. We also saw an increase in more complex financial eligibility determinations related to federal taxable income. The HCA continued to get both consumer and technical assistance questions on IRS procedures and consumer rights after a tax return is filed. One consumer was referred to the HCA's tax attorney for assistance with an IRS audit of her Premium Tax Credit.

This quarter the Vermont Supreme Court issued its decision in the *In Re J.H.* case, involving eligibility for premium subsidies through VHC. The HCA participated in the case as *amicus curiae*, friend of the court. The Court decision adopts the HCA's legal argument and allows J.H. to receive premium subsidies, because she cannot enroll in employer-sponsored insurance unless her husband changes his mind and decides to also enroll. The decision interpreting federal regulations rejects an unjust outcome for consumers in J.H.'s situation. The HCA's tax attorney was interviewed about the case for Vermont Public Radio.

The HCA also engaged in significant tax-related outreach and education activities this quarter. These are detailed below in the **Outreach and Education** section.

G. Other Activities

Litigation

✧ In Re: J.H.

As described above under **Affordable Care Act Tax-Related Activities**, the HCA participated as *amicus curiae* in a Vermont Supreme Court appeal involving eligibility for QHP subsidies under federal tax law. The Court's decision was issued this quarter. In it, the Court adopted the HCA's legal reasoning.

Administrative Advocacy

✧ Access to Treatment for Hepatitis C Virus

This quarter the HCA worked with a coalition of organizations to improve access to treatment for Hepatitis C Virus (HCV) for Vermont Medicaid beneficiaries. In October, the HCA sent a letter to DVHA's Drug Utilization Review Board (DURB) on behalf of the coalition requesting that the DURB review and remove Medicaid's restrictive and illegal criteria for accessing curative HCV treatment. Four individual health care providers and the Vermont Medical Society also sent letters supporting our request. Staff members from the HCA, the ACLU, and Vermont CARES testified at the December meeting of the DURB and at that meeting the DURB voted to reduce the level of liver damage required for treatment of HCV, and to stop restricting patients with current or past substance use from accessing treatment. We are continuing to advocate for implementation of these changes at DVHA, and for giving all patients access to treatment for HCV as is recommended by nationally-accepted medical guidelines.

✧ Billing and Enrollment Work Group

The HCA is participating in this stakeholder group, which was convened by VHC to review and recommend changes to VHC's billing and enrollment process and timeline.

✧ Controlled Substance and Pain Management Advisory Council

Act 173 of 2016 created this council to advise the Commissioner of Health on matters related to the Vermont Prescription Monitoring System, the appropriate use of controlled substances in treating pain, and preventing prescription drug abuse, misuse, and diversion. This quarter the HCA attended the public hearing on the proposed rules for opiate prescribing and the Vermont Prescription Monitoring System, submitted comments to the Department of Health on the two proposed rules, and attended the Legislative Committee on Administrative Rules hearings on the rules.

✧ HIT Plan Interim Governance Team

The state's HIT Plan creates an Interim Governance Team responsible for developing recommendations for the Secretary of Administration to provide to the next Administration. The HCA is participating in this group, which includes state employees and stakeholders. We attended two meetings of the governance team this quarter.

✧ Health Care Administrative Rules (HCAR)

In September, VLA's Disability Law Project and the HCA submitted formal comments on proposed Health Care Administrative Rules (HCAR) as part of the Administrative Procedure Act's formal rulemaking process. We asked for changes to the proposed rules for Specialized Services and Programs and for the definition of Early Periodic Screening, Diagnostic and Treatment services, and argued against the

elimination of some non-eyewear aids to vision. During the quarter, the Department of Vermont Health Access (DVHA) made changes to address our concerns in the final proposed version of the regulations.

The HCA also participated in an informal meeting with DVHA and other Vermont Legal Aid attorneys to discuss the HCAR rule-making schedule and process.

❖ **2018 Qualified Health Plan (QHP) Work Group**

The HCA is participating in this stakeholder group, which was convened by DVHA to help develop any recommended changes to benefit design for QHPs offered on Vermont Health Connect in 2018. The legislature set up a process to discuss the effect that the maximum out-of-pocket expense limit for prescription drugs in Vermont law has on plan design, especially at the bronze plan metal level. The work group is also reviewing other plan design changes. We attended three meetings of the group during the quarter.

❖ **Rule 09-03 Work Group and regulations**

The HCA was actively involved in this work group, which was set up in Act 54 of the 2015 legislative session. The group's purpose was to help the Agency of Administration, the Green Mountain Care Board, and the Department of Financial Regulation (DFR) evaluate the necessity of maintaining provisions for regulating commercial insurers that were included in Rule 09-03. The existing rule contained consumer protection and quality requirements for insurers in areas such as the adequacy of provider networks and the way insurers conduct prior authorization reviews for requested services. The group also reviewed reporting requirements for the insurers that provide details about the claims for covered services that are denied.

The HCA advocated for provisions in the statute and rule that would maintain regulatory protections for consumers in commercial health care plans, would improve the reports insurers provide about denied claims, and would require DFR to file quarterly reports showing how many complaints are filed about violations of the consumer protection standards in Rule 09-03. The Administration presented proposed language for statutory changes to implement the work group's proposals in S.255, and the HCA testified about this bill. DFR and the HCA negotiated a compromise section requiring annual reports about the complaints DFR receives about violations of the rule, aggregated for all insurers. After S.255 (Act 152) passed during the 2016 legislative session, the work group met to discuss the rule before the Administration began the formal rule-making process under the Administrative Procedures Act. The formal rule was filed in August. The HCA did not have any issues with the rule as filed. The Legislative Committee on Administrative Rules reviewed and approved the rule in December.

❖ **Qualified Health Plan (QHP) Certification Work Group**

In May 2016 DVHA developed a draft QHP certification and direct enrollment rule, *Standards for Issuers Participating in the Vermont Health Benefits Exchange*. DVHA began the formal rule making process in July, and the HCA submitted comments on the regulations. During the quarter the HCA attended a meeting with DVHA to discuss remaining issues with the regulations prior to a meeting of the Legislative Committee on Administrative Rules scheduled in November. DVHA decided to withdraw the rule immediately prior to the LCAR meeting. DVHA did not want to include provisions about retroactive account changes and billing and enrollment in the regulations but convened work groups to discuss these issues. The HCA has participated in these work groups.

❖ 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. We communicate with VHC multiple times a day and meet as needed to discuss the most difficult cases. With the latest version of our escalation path, we have begun to resolve cases more quickly and efficiently.

❖ Comments on Vermont Health Connect Notices

At VHC's request, the HCA commented on five 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

The Chief Health Care Advocate was an active participant in Vermont's Medicaid and Exchange Advisory Board (MEAB) until her retirement at the end of August 2016. The HCA attended two meetings of the MEAB in October and November and expects that the new Chief Advocate will be appointed to the MEAB in 2017.

Legislative Activities

This quarter, the HCA monitored the activity of joint committees that took up issues related to health care. We attended two meetings of the Health Reform Oversight Committee, one meeting of the Joint Fiscal Committee, and three meetings of the Legislative Committee on Administrative Rules.

Collaboration with Other Organizations

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

- ABA Section of Taxation Pro Bono and Tax Clinics Committee
- AIDS project of Southern Vermont
- American Civil Liberties Union of Vermont (ACLU-VT)
- Arkansas Legal Aid
- Center on Budget and Policy Priorities
- Community Catalyst
- Consumers Union
- HIV/HCV Resource Center
- IRS Office of Chief Counsel
- IRS Stakeholder Partnerships, Education and Communication (SPEC)
- IRS Taxpayer Advocate Service
- National Health Law Program
- National Viral Hepatitis Round Table
- Oklahoma Indian Legal Services
- OneCare Vermont
- Prisoners' Rights Office
- University of Vermont Medical Center
- Vermont Association of Hospitals and Health Systems (VAHHS)

- Vermont CARES
- Vermont Health Connect
- Vermont Medical Society
- Vermont Oral Health Care for All Coalition
- Vermont People With AIDS Coalition
- Vermont Public Interest Research Group (VPIRG)

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Outreach and Education

A. 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 (www.vtlawhelp.org/health) with more than 200 pages of consumer-focused health information maintained by the HCA. We work diligently to keep the site updated in order to provide the latest and most accurate information to Vermont consumers.

Google Analytics Statistics

- The total number of health pageviews increased by 48% in the reporting quarter ending December 31, 2016 (9,299 pageviews), compared with the same quarter in 2015 (6,273 pageviews). This is particularly noteworthy because the total number of pageviews for the entire Vermont Law Help website was only slightly higher (6.1%) compared with the same period last year.
- The number of people seeking help finding ***dental services*** increased significantly (72%) compared with the previous year. (475 pageviews this quarter, compared with 276 in the same period last year.)
- The number of people who visited our ***Services covered by Medicaid*** page increased by 323% this quarter, with 317 pageviews compared to last year's 75. Last quarter that page had 129 pageviews.
- This quarter, like the previous five quarters, we saw a large increase in the number of people seeking information about ***Medicaid income limits*** (3,240 pageviews this quarter, compared with 1,732 in the same quarter in 2015 – an increase of 87%). The consistently high numbers indicate that search engines are delivering this page as a high-ranking source of information about Medicaid income limits, as well as the increasing age of Vermont's population.
- The ***health home page*** again had the second largest number of pageviews (971), slightly higher than last year's 843. The home page tells consumers how we can help them and provides several ways to contact us including an online form that can be filled out and submitted 24/7.
- Half of the 20 health topics with the largest number of pageviews focused on Medicaid or long-term care Medicaid (Choices for Care). There is almost no information about MCA Medicaid or Dr. Dynasaur available on the state websites, but there is clearly a need for information on these topics.
- The number of people looking for information about ***Buying Prescription Drugs*** jumped significantly (175 pageviews, this year compared to 72 pageviews in 2015). This number is 72% higher than last quarter (102 pageviews).
- Other popular topics included:
 - ***Vermont Choices for Care*** (320 pageviews,)

- *Health Insurance Taxes and you* (276 pageviews)
- *Medicaid and Medicare-(Dual Eligible)* (162 pageviews)
- *Resource Limits-Medicaid* (134 pageviews)

PDF Downloads

- Forty-five out of 120 or 38% of the **unique PDFs** downloaded from the Vermont Law Help website were on health care topics. Of those unique health-related PDF titles: 18 were created for consumers. The top five consumer-focused PDF downloads were the same as the last two quarters:
 - *Vermont Dental Clinics Chart* (92 downloads)
 - *Advance directive, short form* (38 downloads)
 - *Free Dental Care Day* (27 downloads)
 - *Blue Cross Blue Shield of VT Annual Report 2014* (21 downloads)
 - *Advance directive, long form* (16 downloads)
- 13 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:
 - *Low-Income Taxpayers and the Affordable Care Act – November 2014* (10 downloads)
 - *PTC rule allocation summary* (3 downloads)
- 7 covered topics related to health policy. The top policy-focused downloads were:
 - *Vermont ACO Shared Savings Program Quality Measures* (14 downloads)
 - *Consumer Principles for Vermont’s All-Payer Model* (12 downloads)

Our *Vermont Dental Clinics Chart* continues to be the **third most downloaded of all PDFs** downloaded from the Vermont Law Help website.

B. Education

Education/Outreach

Presentations

Midwest LITC Network (October 6, 2016)

The HCA’s tax attorney covered Medical Loss Ratio Rebates, APTC safe harbors, ACA information returns, ACA-related letters from the IRS, and outreach topics in this presentation to 22 low-income tax clinic attorneys from legal services organizations and academic LITC clinics.

Health Care & Rehabilitation Services of Vermont (HRCS) (October 31, 2016)

The HCA presented about the Office of the Health Care Advocate and other health care topics to approximately 18 HRCS staff members. The presenter explained what the HCA is, how we fit into VLA, and who is eligible for our services (any Vermont resident with a health care issue). The presenter also discussed Vermont Health Connect and open enrollment for 2017, as well as Medicaid reviews. The HRCS staff asked questions about best practices for referring clients, in what situations they should give people our phone number, and other ways clients can access our services (website, email) and took 68 HCA brochures. The HRCS has over 600 staff members serving clients throughout Vermont.

University of Vermont Tax School (November 15, 2016)

In response to a question from an attendee at UVM’s Tax School about where to turn for help with ACA tax-related problems, VLA’s tax attorney discussed and provided contact information for the HCA

hotline. About 160 tax professionals (enrolled agents, CPAs, attorneys, and un-credentialed preparers) attended the presentation.

University of Vermont Tax School Organizing Committee Meeting (December 6, 2016)

The HCA presented about the Office of the Health Care Advocate, emphasizing the Vermont Health Connect issues the HCA can help with, and explained how to refer consumers to the HCA. Twelve members of the committee were present. Committee members are generally tax professionals in private tax practices.

ABA Tax Section (December 12, 2016)

The HCA tax attorney partnered with the Center on Budget and Policy Priorities to present “Form 1095 Conflicts & Appeals in the Health Insurance Marketplace” to 75 attendees, mostly Low Income Taxpayer Clinic attorneys, at the ABA Tax Section’s annual Low-Income Taxpayer Representation Workshop.

Annual Low-Income Taxpayer Clinic Grantee Conference (December 13, 2016)

The HCA’s tax attorney was featured on a panel that presented “The Affordable Care Act: Premium Tax Credit and Individual Shared Responsibility Payment” to about 250 attendees [directors and staff attorneys from Low-Income Taxpayer Clinics (LITC) and staff from the Taxpayer Advocate Service (TAS)]. The presentation was a collaboration with the Taxpayer Advocate Service, the Affordable Care Act Office, and the IRS Office of Chief Counsel.

Publications

Justice Quarterly (November 29, 2016)

Three health care articles were published in the Fall issue of VLA’s quarterly newsletter, Justice Quarterly. One article informed readers about new ACA requirements for nonprofit hospitals to have a *written financial assistance policy* and make it available to patients when they are admitted or discharged. Another article provided *Vermont Health Connect open enrollment tips*, including to sign up in early December to ensure coverage on January 1. The third briefly explained the *all-payer model agreement* that Vermont entered into with the federal government, including the HCA’s plans to monitor the plans as they develop and identify potential consumer protection issues.

The HCA updated our *Fair Hearing Fact Sheet* that tells consumers how to prepare for and what to expect at Fair Hearing appeals of health care decisions.

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:

- Provided extensive plain language edits and edits/comments to improve comprehension of message and ability to resolve the problem being addressed in the following notices/letters:
 - EE311-MNT closure for Non-Category sent 12-23-16
 - EE508-MM NoD Indian Status sent 12-12-16
 - EE002PEND-MM V3 sent 11-10-16
 - EE503-MM NoD after MAGI verification, approved sent 11-10-16
 - VLAEE504-MM NoD after MAGI + verification approved sent 11-10-16

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