

# VERMONT LEGAL AID, INC.

## OFFICE OF THE HEALTH CARE ADVOCATE

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## QUARTERLY REPORT

October 1, 2014 – December 31, 2014

to the

Agency of Administration

submitted by

Trinka Kerr, Chief Health Care Advocate

January 21, 2015

## NARRATIVE

### I. Introduction

The Office of the Health Care Advocate (HCA) provides consumer assistance to individual Vermonters on questions and problems related to health insurance and health care. The HCA also engages in consumer protection activities on behalf of the public before the Green Mountain Care Board, other state agencies and the state legislature.

The full quarterly report for October 1, 2014-December 31, 2014 includes:

- This Narrative which contains sections on **Individual Consumer Assistance**, **Consumer Protection Activities** and **Outreach and Education**
- Six data reports, including three based on the caller's insurance status:
  - **All calls/all coverages:** 1,225 calls
  - **Department of Vermont Health Access (DVHA) beneficiaries:** 502 calls or **41%** of total calls
  - **Commercial plan beneficiaries:** 309 calls or **25%**
  - **Uninsured Vermonters:** 126 calls or **10%**
  - **Vermont Health Connect:** 470 calls or **38%** (this data report draws from the All Calls data set above)
  - **Reportable Activities (Summary & Detail):** 129 activities, 54 documents

### II. Individual Consumer Assistance

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

*The Office of the Health Care Advocate, previously named the Office of Health Care Ombudsman, is a special project of Vermont Legal Aid.*

The HCA received 1,225 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:

- **18.37%** (225) about **Access to Care**;
- **13.80%** (169) about **Billing/Coverage**;
- **1.14%** (14) about **Buying Insurance**;
- **14.12%** (173) about **Consumer Education**;
- **34.53%** (423) about **Eligibility** for state programs and Medicare; and
- **18.04%** (221) 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 423 of our cases had eligibility for state health care programs as the primary issue, there were actually a total of 1,394 eligibility issues raised. This is because it is possible to have multiple specific eligibility issues in a single case.

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. Sometimes it is difficult to determine which issue is the “primary” issue 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 breakouts 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.

Our recommendations to the state are at the end of this section, beginning on page 10.

### **A. The HCA’s call volume again hit record high levels: calendar year 2014 had 39% more calls than 2013.**

The HCA received 4,527 calls this past year, compared to 3,257 in 2013, a 39% increase, and the most ever by far. Call volume was 12% higher this quarter over last quarter, and 29% higher than the same quarter in 2013. It was the highest quarterly call volume we have ever had; the previous record was 1,184 in the first quarter of 2014.

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<sup>1</sup> The term “call” includes cases we get through our website.

In December we received 583 calls, the most we have ever received in one month. Before VHC launched, our call volume usually ran at 200-300 calls per month, and we rarely hit 300. Since December 2013, we have received at least 300 calls every month, and twice we received more than 400 calls in a month. There were two main reasons for the spike in calls in December. The first is that DVHA sent out a new annual notice to VPharm beneficiaries that confused many recipients. The second is that VHC continues to lack the technical capability necessary to operate properly, causing major problems for many Vermonters.

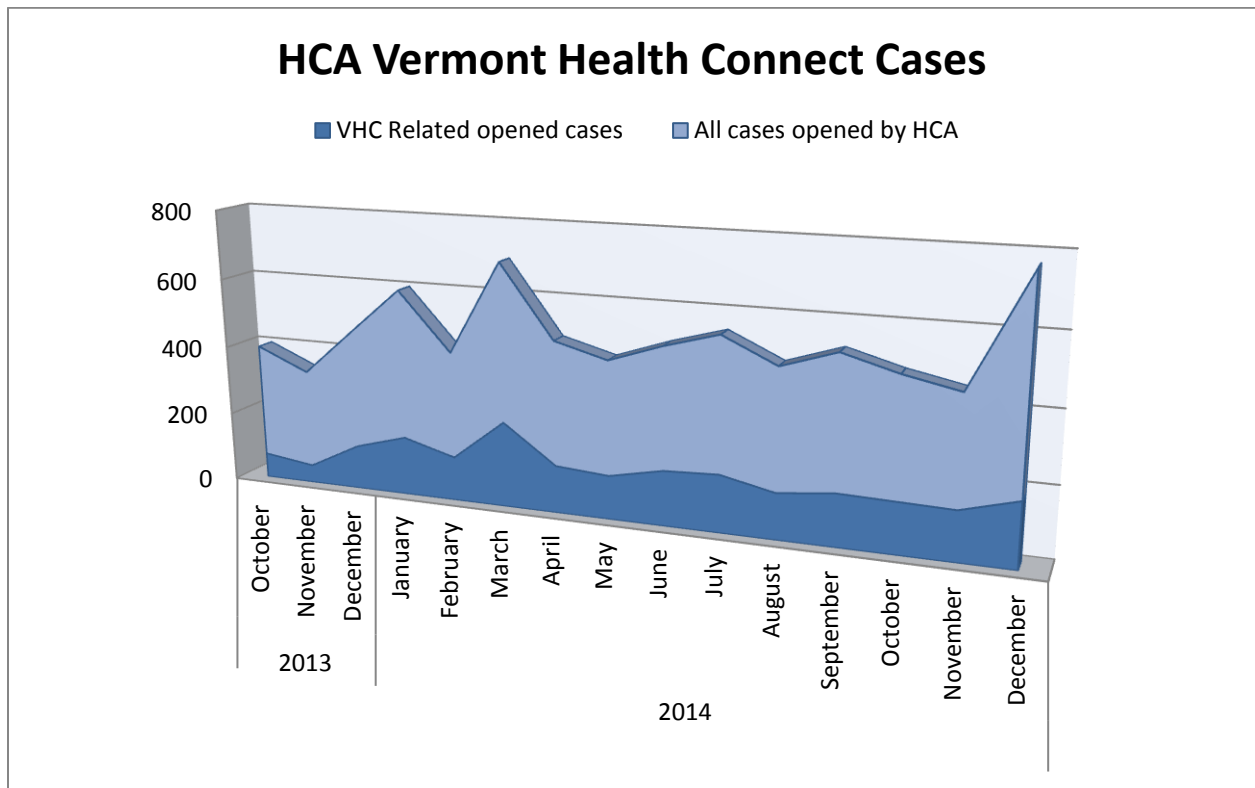
Calls by month and year:

<b>All Cases (2004-2014)</b>											
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>January</b>	252	178	313	280	309	240	218	329	282	289	428
<b>February</b>	188	160	209	172	232	255	228	246	233	283	304
<b>March</b>	257	188	192	219	229	256	250	281	262	263	451
<b>April</b>	203	173	192	190	235	213	222	249	252	253	354
<b>May</b>	210	200	235	195	207	213	205	253	242	228	324
<b>June</b>	176	191	236	254	245	276	250	286	223	240	344
<b>July</b>	208	190	183	211	205	225	271	239	255	271	381
<b>August</b>	236	214	216	250	152	173	234	276	263	224	342
<b>September</b>	191	172	181	167	147	218	310	323	251	256	374
<b>October</b>	172	191	225	229	237	216	300	254	341	327	335
<b>November</b>	146	168	216	195	192	170	300	251	274	283	306
<b>December</b>	170	175	185	198	214	161	289	222	227	340	583
<b>Total</b>	<b>2409</b>	<b>2200</b>	<b>2583</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. Problems with Vermont Health Connect continued, and increased slightly over the previous two quarters.**

VHC has been plagued with operational problems since it was launched in October 2013. This quarter we received 470 calls related to VHC, compared to 444 last quarter (a 6% increase), and 418 for the quarter before that. There were a lot of different types of issues involving VHC, but the most problematic areas were billing and the lack of computer functionality to make changes in the system (“Change of Circumstance” functionality). Invoice/Payment/Billing problems were the most frequent VHC complaint at 125 calls, followed by 122 calls related to the lack of Change of Circumstance (COC) functionality (when primary and secondary issues are counted). There can be some overlap between these two types of cases. That is, many people had problems with both COCs and billing.

This chart shows the proportion of VHC cases in our caseload this over the past year.



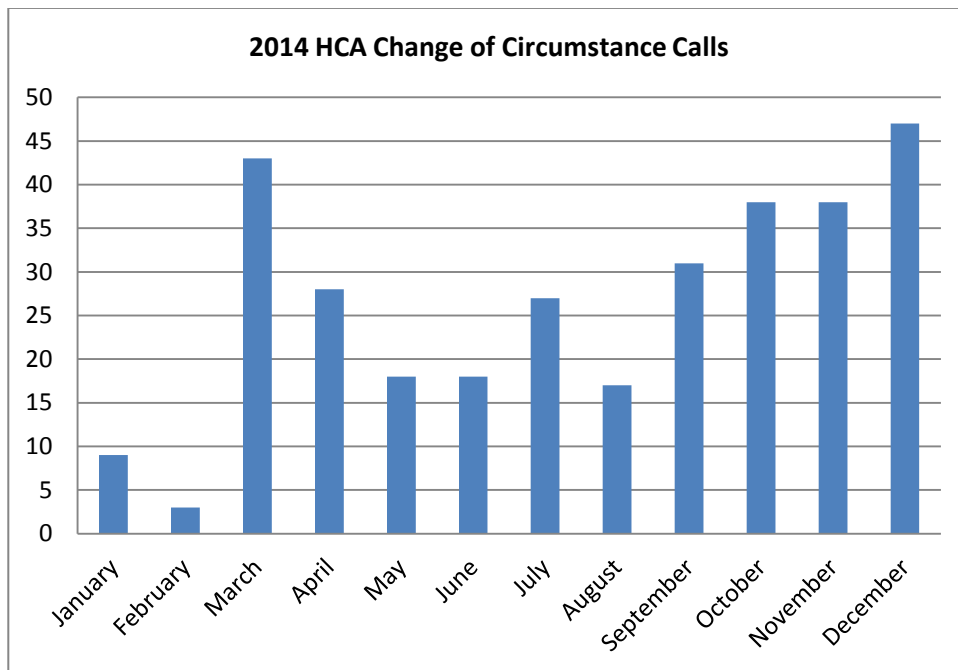
### C. Complaints related to Vermont Health Connect’s lack of Change of Circumstance functionality increased by 63%.

The HCA had 122 cases involving Change of Circumstance problems, when we counted both primary and secondary issues. This is up from 75 last quarter, and 64 the previous quarter.

Fifteen of our clients with a COC problem this quarter also had an access to care issue, caused by the delay in changing their coverage. VHC has designated the need for care as a high priority. Despite that triage level, in some cases Vermonters have gone without needed care for days and even weeks.

VHC’s inability to make corrections in its system easily because its computer system lacks that functionality has been increasingly identified as the source of clients’ coverage problems. Without COC functionality, VHC has been forced to make changes manually, a process that is cumbersome, time consuming, and prone to human error. Although state employees have been making a valiant effort to make requested changes as quickly as possible, many Vermonters have gone without coverage, or been unable to drop unwanted coverage, get correct invoices, get on the plan they wanted, or add or subtract a dependent. In some cases these problems have lasted for months. As a result of lengthy waits for corrections to be made, many of our clients are extremely frustrated and angry, something we rarely saw in the past.

We understand that VHC will not be able to deploy the COC functionality until April 2015. Since VHC has been unable to resolve all 2014 COCs, and new requests for COCs continue to come in, it is going to be a difficult few months. In the meantime, we expect many Vermonters who had COC problems in 2014 to also have tax issues<sup>2</sup> and problems with their 2015 coverage.



**D. Vermont Health Connect billing and premium processing continue to be major problems.**

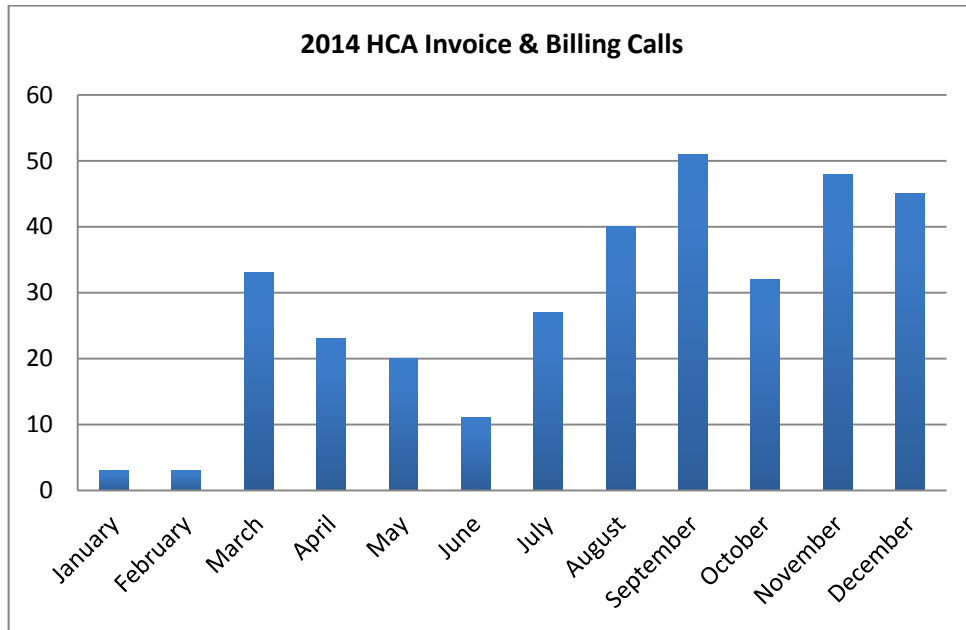
Some consumers who purchased a Qualified Health Plan (QHP) from VHC continued to have problems getting the coverage they bought. The problems include non-receipt of invoices, multiple invoices in one month, delays in processing, and sometimes longer delays in actually getting correct coverage. Some people reported that they had made payments for months which did not seem to be recorded anywhere. Frequently these problems resulted in individuals going without coverage for months. In many cases they were deferring or going without care or medications because their insurance had not been activated. It is small consolation for people to get retroactive coverage when things are finally fixed if they went

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<sup>2</sup> VHC is required by the Affordable Care Act to give people who purchased Qualified Health Plans tax forms indicating the months they had coverage and any Advance Premium Tax Credits (APTC) the tax household received. For the first time, the IRS will look at tax filers' health insurance status for the year and determine each individual's entitlement to a Premium Tax Credit based on his or her income. The IRS will reconcile any APTC with the income reported, causing some individuals to owe more or less in taxes than they expected.

without care while waiting for their coverage to be activated. Many do not want to pay for retroactive coverage that they were unable to use.

This quarter we received 125 calls involving invoices, billing and premium processing, compared to 117 last quarter when primary and secondary issues are counted, an increase of 6%. Eighteen of our premium processing cases also involved access to care issues, and eight involved debt collection issues connected to VHC billing problems. We created a new code for VHC Debt Collection this quarter, as it is an emerging problem.



#### **E. Calls involving Premium Tax Credits increased.**

Calls in which we addressed questions and concerns about Advance Premium Tax Credits increased from 73 to 91, when both primary and secondary issues are counted. After VHC sends out the new 1095-A tax forms at the end of January to all QHP beneficiaries, we expect to see an even greater increase in calls involving the implications of the tax credit.

#### **F. The new annual notice about VPharm caused confusion.**

Right before Thanksgiving DVHA sent out a notice to over 12,000 VPharm<sup>3</sup> beneficiaries telling them about the benefits of that program and suggesting that some beneficiaries might not actually need it. This notice was required by the state legislature, and this was the first year it was sent out. The HCA's phone number was the number given on the form for questions. As a result, we received 207 calls from mostly elderly VPharm beneficiaries during this quarter, 168 of whom found the notice confusing. For comparison, in the same six weeks in 2013 we received 12 calls from VPharm beneficiaries.

<sup>3</sup> VPharm is essentially a state wrap around the federal Medicare Part D prescription drug benefit.

As a result of this onslaught of calls, we have since worked with DVHA and the State Health Insurance assistance Program (SHIP)<sup>4</sup> to improve the notice and the process for 2015. DVHA will change the contact number for questions on the notice to the SHIP's phone number and the HCA, DVHA and SHIP will rewrite the notice to make it more understandable. Also, the notice will go out at a different time of year, before the Medicare Part D Open Enrollment Period, so that SHIP staff will have the time to do appropriate counseling.

## **G. The top issues generating calls**

The listed issues in this section include both primary and secondary issues. Calls can have more than one secondary issue.

### **All Calls 1,225 (compared to 1,096 last quarter)**

1. Medicare consumer education 236 (compared to 67 last quarter)<sup>5</sup>
2. Notice-confusing 202 (33)
3. VPharm eligibility 197 (25)
4. VHC complaints 163 (198)
5. Information about VHC 168 (185)
6. Information about DVHA programs 127 (138)
7. VHC Invoice/billing Problem 125 (117)
8. Change of Circumstance 122 (76)
9. MAGI Medicaid eligibility 108 (92)
10. Complaints about providers 101 (146)
11. Premium Tax Credit eligibility 93 (73)
12. Access to Prescription Drugs 92 (101)
13. Affordability issue that created an access problem 87 (57)
14. DVHA/VHC Premium billing 68 (12)
15. VHC website/technology problem 66 (127)

### **Vermont Health Connect Calls 470 (compared to 444 last quarter)**

1. Information about VHC 163 (181)
2. VHC complaints 162 (197)
3. VHC Invoice/Payment/Billing problem 125 (117)
4. Change of Circumstance 122 (76)
5. MAGI Medicaid eligibility 103 (82)
6. Premium Tax Credit eligibility 91 (71)
7. Information about applying for DVHA programs 72 (71)
8. VHC website/technology problem 65 (109)
9. Buying QHPs through VHC 49 (67)
10. VHC Renewals 46 (a new code)

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<sup>4</sup> SHIP provides Medicare beneficiaries with counseling and assistance with Medicare Part D.

<sup>5</sup> This big increase, along with the big increases in the next two issues on this list, was a result of the VPharm annual notice.

### **DVHA Beneficiary Calls 502 (compared to 403 last quarter)**

1. Medicare consumer education 146 (24)
2. VPharm eligibility 139 (9)
3. Notices-confusing 138 (10)
4. Complaints about Providers 61 (84)
5. Information about DVHA programs 60 (56)
6. Access to Prescription Drugs 47 (41)
7. MAGI Medicaid eligibility 43 (25)
8. Medicaid Billing 33 (37)
9. Information about VHC 33 (21)
10. Affordability 28 (23)
11. VHC complaints 27 (28)

### **Commercial Plan Beneficiary Calls 309 (compared to 264 last quarter)**

1. VHC invoice/payment problem 81 (69)
2. VHC complaints 80 (92)
3. Change of Circumstance 79 (44)
4. Information about VHC 78 (99)
5. Premium Tax Credit eligibility 52 (40)
6. DVHA/VHC premiums billing 42 (6)
7. VHC website/technology problem 39 (57)
8. QHP Renewals 33 (new code)
9. Affordability that created an access problem 26 (20)
10. MAGI Medicaid 23 (29)

### **H. Hotline call volume by type of insurance:**

The HCA received 1,225 total calls this quarter. Callers had the following insurance status:

- **DVHA program beneficiaries** (Medicaid, VPharm, or both Medicaid and Medicare aka “dual eligibles”) insured **41%** (502 calls), compared to 37% (403) last quarter;
- **Medicare<sup>6</sup> beneficiaries** (Medicare only, Medicare Advantage Plans, Medicare and a Medicare Supplemental Plan aka Medigap, Medicare and Medicaid aka “dual eligibles,” Medicare and Medicare Savings Program aka Buy-In program, Medicare and Part D, or Medicare and VPharm) insured **31%** (380<sup>7</sup>), compared to 19% (209) last quarter;
- **Commercial plan beneficiaries** (employer sponsored insurance, small group plans, or individual plans) insured **25%** (309), compared to 24% (264) last quarter; and
- **Uninsured** callers made up **10%** (126) of the calls, compared to 14% (152) last quarter.

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<sup>6</sup> Because Medicare beneficiaries can also have commercial or DVHA coverage, these Medicare numbers overlap with those figures.

<sup>7</sup> This big increase is a result of the VPharm annual notice.



- In the remainder of calls insurance status was either unknown or not relevant.

## I. Dispositions of closed cases

### All Calls

We closed 1,155 cases this quarter, compared to 1,086 last quarter.

- 33% (378 cases) were resolved by brief analysis and advice;
- 27% (309) were resolved by brief analysis and referral;
- 21% (240) of the cases were complex interventions involving complex analysis, usually direct intervention, and more than two hours of an advocate's time;
- 14% (167) were resolved by direct intervention, including calling an insurance company, calling providers, writing letters, gathering supporting medical documentation, etc.;
- Just 1 case was resolved in the initial call.
- In the remaining cases, clients withdrew, resolved the issue on their own, or had some other outcome.
- Appeals: 26 cases involved help with appeals: 3 commercial plan appeals, 17 Fair Hearings, 1 Expedited Fair Hearing, 4 DVHA internal MCO appeals and 1 Medicare appeal. Most of our cases involving VHC and DVHA problems are resolved without using the formal appeals process.

### DVHA Beneficiary Calls

We closed 500 DVHA cases this quarter, compared to 407 last quarter.

- 36% (180 cases) were resolved by brief analysis and advice;
- 28% (138) were resolved by brief analysis and referral;
- 16% (80) were considered complex intervention, which involves complex analysis, usually direct intervention, and more than two hours of an advocate's time;
- 16% (82) were resolved by direct intervention on the caller's behalf, including advocacy with DVHA and providers, writing letters, and gathering medical information;
- Just 1 DVHA beneficiary call was resolved in the initial call.
- In the remaining cases, clients withdrew, resolved the issue on their own, or had some other outcome.
- Appeals: 22 cases involved appeals: 17 Fair Hearings, 1 Expedited Fair Hearing, and 4 internal MCO appeals.

### Commercial Plan Beneficiary Calls

We closed 253 cases involving individuals on commercial plans, compared to 253 last quarter.

- 32% (80 cases) were resolved by brief analysis and advice;
- 15% (39) were resolved by brief analysis and referral;
- 31% (78) were considered complex intervention, which involves complex analysis, usually direct intervention, and more than two hours of an advocate's time (this measure increased by 20% over last quarter);

- 19% (48) were resolved by direct intervention on the caller's behalf, including advocacy with the carrier and providers, writing letters, and gathering medical information;
- No calls from commercial plan beneficiaries were resolved in the initial call.
- In the remaining cases clients withdrew, resolved the issue on their own, or had some other outcome.
- Appeals: 3 cases involved appeals.

## J. Case outcomes

### All Calls

The HCA helped 93 people get enrolled in insurance plans and prevented 11 insurance terminations or reductions. We obtained coverage for services for 43 people. We got 32 claims paid, written off or reimbursed. We helped 6 people complete applications and estimated VHC insurance program eligibility for 11 more. We provided other billing assistance to 41 individuals. We obtained hospital patient assistance for 2 people. We provided 676 individuals with advice and education. We obtained other access or eligibility outcomes for 72 more people, many of whom we expected to be approved for medical services and state insurance.

We encourage clients to call us back if they are subsequently denied insurance or a medical service after our assessment and advice, or do not have their issue resolved as expected.

In total, this quarter the **HCA saved individual consumers \$46,439.34** in cases opened this quarter. The amount of individual savings in calendar year 2014 was **\$374,140.54**. In 2013 we saved consumers \$187,214.96.

## K. Case examples

Here are a few examples of the problems we helped Vermonters resolve this quarter:

1. VHC loses premium check and terminates insurance. Mr. A suddenly found himself without insurance. His family had a plan through VHC, and he had paid the premiums on time each month. All of his checks had been cashed by VHC. Nevertheless, he received a notice saying that his insurance had been cancelled for non-payment. He had no idea what was going on, and was worried because his family needed continuing medical care. He called the HCA for help. The HCA advocate investigated and found that even though Mr. A's premium checks had been cashed by VHC, one check had not been applied to his account. It apparently had been lost, causing Mr. A's account to be closed for non-payment. The advocate contacted VHC and requested an immediate reinstatement because Mr. A could prove he had sent the check and that it had been cashed by VHC. VHC reinstated Mr. A's coverage, and eventually found the check and applied it to his account.

2. Despite premium payment, VHC cancels coverage. When Mr. B went to the pharmacy to pick up a prescription, he was told that he did not have any active insurance. Mr. B was shocked. He had been on a plan through VHC, and he had been paying for his plan every month. He had a chronic medical condition and needed daily medication. He called VHC and was told that his plan had been closed for non-payment. He had not received any notices warning him that the coverage was going to be closed. Mr. B requested that VHC reinstate his coverage, but VHC initially denied that request. He then asked for a fair hearing to contest VHC's decision and called the HCA. His HCA advocate helped him prepare for the hearing. Mr. B argued that his plan should be reinstated because he had been paying his monthly premiums all along and had received no notices that he was in a grace period or that his plan was about to be closed. VHC changed its position and reinstated Mr. B's coverage.
3. Hospital bill threatens housing. Ms. C called the HCA because she had just paid a \$1900 hospital bill, and was distressed that as a result she could not pay her mortgage. Ms. C was in her 80's and afraid she was going to lose her home, where she had lived her entire life. Her HCA advocate got a copy of the hospital bill, and discovered that Ms. C had both Medicare and Medicaid. The hospital had billed both, and Medicaid had paid on the claim. It was unclear why Ms. C had been billed at all since it was illegal for the hospital to balance bill Ms. C. The advocate called the hospital which immediately agreed to refund the \$1900 payment. Ms. C was greatly relieved that she would be able to keep living in the home where she was born, and sent the HCA an incredibly sweet thank you note.
4. Uninsured individual can't pay hospital bill and is unaware of programs to make health care more affordable. Mr. D was uninsured and unable to pay a hospital bill. In the past when he'd had hospital bills, the hospital had given him patient financial assistance. However, the hospital now said it was not going to give him patient financial assistance again unless he applied for some coverage. Mr. D, however, did not think he could afford insurance and did not know what to do. He called the HCA. The HCA advocate learned that when Mr. D had turned 65, he had not signed up for Medicare because of the costs. The HCA advocate determined that Mr. D was probably eligible for multiple programs that would help with these costs. First, the advocate helped him apply for a Medicare Savings Program through the state. This program would help him enroll in Medicare immediately, cover cost-sharing, and also cover the late penalties he would have had to pay because he failed to enroll in Medicare when he turned 65. Next, the advocate helped him sign up for a Medicare Part D plan that would cover his drug costs. Finally, she helped him get onto Medicaid. When Mr. D's case was finished, he had Medicare Parts A, B and D, as well as Medicaid. As a result, he will no longer need patient financial assistance and has minimal out-of-pocket costs.
5. Use of wrong Medicaid application causes coverage denial and delayed medical care. Ms. E had a chronic health condition and was very low income but had been denied Medicaid. She had just moved to Vermont and needed to see a doctor quickly. She

believed she was eligible for Medicaid, so she did not understand what was happening. She called the HCA. Her HCA advocate discovered that Ms. E had applied for the wrong type of Medicaid and had used the wrong application. Ms. E had applied for Medicaid for the Aged, Blind, and Disabled (MABD). She was not eligible for MABD because she was under 65 and not disabled. Ms. E, however, was eligible for Medicaid for Children and Adults (MCA) through Vermont Health Connect. The advocate explained this to Ms. E, helped her apply using the correct Medicaid application, and asked VHC to rush processing it due to medical need. VHC found Ms. E eligible for MCA, she had active coverage within the week and was able to get the care she needed.

## **L. Recommendations**

- 1. Improve the Vermont Health Connect invoice and payment system.*

Internal processes must be improved so that checks are not lost, payment is attributed to the correct account, payments are transferred correctly and promptly to the carriers, and all payments are correctly recorded. We have heard about so many problems with the billing system that it is difficult to catalogue them all: lack of invoices, confusing invoices, the inability to process some payments, etc. It is unacceptable that some people are paying as they are supposed to, yet still have their coverage terminated. It is also unacceptable that coverage cannot be promptly terminated when the beneficiary requests closure. Failure to do this for individuals who are getting Advanced Premium Tax Credits may result in incorrect income tax liability.

- 2. Make the Vermont Health Connect change of circumstance functionality operational as soon as possible.*

This goes without saying at this point, but we have to raise the issue again since it is such a huge problem. We know the expectation is that COC functionality will be deployed in April. The sooner the better. Lack of this functionality has created major problems and hardship for many people.

- 3. Develop a system so that individuals who are denied one form of Medicaid are automatically screened for other programs.*

Vermonters applying for Medicaid cannot be expected to know there are now different types of Medicaid with different applications. There must be a system whereby a denial for one program automatically sends the applicant to the other for screening.

- 4. Remind all state staff to involve stakeholders in the development of consumer communications, to write them in plain language, and to strive for a reading level of eighth grade or lower.*

If these guidelines had been followed, the problems arising from the VPharm annual notice described on page 5 would not have happened. Also, it is especially important to include any stakeholder whose phone number is going to be on the notice.

### **III. Consumer protection activities**

#### **A. Rate review work**

No new rate review cases were filed with the Green Mountain Care Board in this quarter. However, we filed memoranda in six of the pending cases filed during the previous quarter. There were also no contested hearings this quarter.

One rate review proceeding of note was the 2015 MVP Agriservices filing. It covered an “association” plan that offered insurance for 1,371 farmers and dairymen and MVP requested a 16% increase. It appeared that MVP had filed as a large group plan when it should have been a small group or individual plan. The HCA was concerned that the group size categorization might prevent current policyholders from having the option to receive subsidies on the exchange (Vermont Health Connect) under Affordable Care Act rules. We therefore raised this issue with the Board. After researching the federal and state laws on association plans, submitting a supplemental brief on the issue, and participating in extra meetings on the filing with the hearing officer and MVP, we were able to ensure that Agriservices policyholders have the option to access subsidies on the exchange. The HCA also argued that the contribution to surplus should be reduced from 2% to 0%, and the Board reduced it to 1%. The Agriservices plan will not continue in 2016.

We also argued for lower rates in five additional MVP filings. In all of these cases, the HCA argued that MVP’s requested pharmacy trend should be lowered and that the requested contribution to surplus should be reduced from 2% to 1%. The Board made these changes which were consistent with the September 2014 decision in the MVP Exchange filing.

Finally, in December the HCA attended a general hearing on the topic of rate review held by the Board.

#### **B. Certificate of Need Applications**

The HCA continues to monitor all Certificate of Need activities before the Green Mountain Care Board.

In October, the HCA submitted proposed questions for the applicant for the Green Mountain at Fox Run application for creation of an outpatient binge eating disorder treatment program (GMCB-013-14con). After reviewing this application, we had significant consumer protection concerns. We focused our questions to the applicant on issues regarding access to care for low-income individuals and peer-reviewed evidence on the likely treatment success rate, cost

efficacy, and adequacy of medical staff coverage for the proposed program design. The Board incorporated eight out of our nine questions in their subsequent request for information to the applicant.

Later in October, we submitted a notice of intervention for the University of Vermont Medical Center's (UVMC) application for replacement of inpatient beds (GMCB-021-14con), a 187 million dollar project. UVMC's earlier application for a South Burlington property acquisition (GMCB-015-14con) was put on hold pending the outcome of this new application. In December, we submitted questions to the applicant. We requested additional explanation and evidence on how the project would result in improved and cost-effective patient care and how the hospital will fully utilize the new space resulting from the project. The Board incorporated nine of our twelve proposed questions in its following request for information from the applicant.

### **C. Other Green Mountain Care Board activities**

As Vermont increases its efforts to control health care spending by changing payment and delivery systems, the HCA will increase its advocacy to maintain or improve the quality of care that Vermonters receive. The Board and providers in the state have already been actively engaged in various payment reform initiatives, and the HCA has been pressing for more accountability.

This quarter the HCA submitted two sets of formal comments to the Board on the Vermont Accountable Care Organization Shared Savings Program Quality Measures. In the first set of comments we argued for increased quality measurement in year two of the program. In the second set of comments we argued against a proposed hiatus on measures for year three of the commercial shared savings program. As these measures are designed to track quality of care status as payment reform initiatives are implemented, our office is stressing that insufficient quality measurement threatens consumers.

The HCA attended three days of vendor demonstrations for the Board's VHCURES 2.0 procurement. We subsequently submitted formal comments on consumer protection priorities for the vendor selection process, based on potential vendor treatment of the VCHURES data.

We also attended weekly Board meetings to monitor the Board's activities, and had monthly meetings with the Board's staff to discuss consumer protection priorities. We met with the Board's newest member, Jessica Holmes, to introduce her to our office. We attended the Board's Advisory Committee meeting in October which focused on Health Care Quality and Performance Measures. And finally, we attended monthly meetings of the Board's Data Governance Program Committee which was newly formed to manage data resources at the Board. Our office is monitoring the patient information privacy and security aspects of this project.

### **D. Vermont Health Care Innovation Project**

The HCA continues to participate in the Vermont Health Care Innovation Project (VHCIP), which is funded by Vermont’s State Innovation Model (SIM) grant. This quarter we:

- Participated in 2 meetings as a member of the VHCIP Steering Committee
- Participated, along with representatives from other projects of Vermont Legal Aid, as “active members” in six of the seven VHCIP work groups including the Payment Models Work Group, the Quality and Performance Measures Work Group, the Population Health Work Group, the Care Models and Care Management Work Group, the Disability and Long Term Services and Supports Work Group, and the Health Information Exchange/Health Information Technology Work Group
- Attended 13 VHCIP work group meetings
- Attended 3 meetings of the VHCIP Core Team as an interested party
- Submitted comments to the Care Models and Care Management Work Group about proposed Accountable Care Organization Care Model Standards
- Submitted comments to DVHA and the Payment Models Work Group regarding changes to the Medicaid Shared Savings Program gate and ladder methodology for year two of the program
- Attended the Vermont Health Care Workforce Symposium
- Met with two Accountable Care Organizations (Community Health Accountable Care and Accountable Care Coalition of the Green Mountains) regarding consumer engagement
- Attended the ‘Frail Elders Proposal’ webinar

## **E. Affordable Care Act Tax-related Activities**

The federal Affordable Care Act made tax law newly important to effective health advocacy. It imported tax concepts into Medicaid, created a new federal tax credit to subsidize private health insurance purchased through health benefit exchanges, and created a tax penalty for failure to have insurance coverage. The HCA responded by partnering with the Low Income Taxpayer Project at Vermont Legal Aid to engage in education, outreach, and advocacy relating to the Affordable Care Act.

During this quarter, the HCA employed a half-time tax attorney, who also staffs the Low Income Taxpayer Project at VLA. This allowed the HCA to stay up to date on legal developments and educate its staff so they can better field calls related to the ACA and Vermont Health Connect. We trained HCA staff in IRS procedures and rules.

The HCA answered many tax-related questions from VHC, tax preparers, health assisters, and from individual callers. We developed template advice letters for clients on issues including reconciliation of Advanced Premium Tax Credits. The materials we developed for advocates have been shared with health and tax advocates in Vermont and nationwide.

We made several educational presentations for other advocacy groups, and we developed materials and presentations to help advocates. During the quarter we updated and re-distributed educational materials we produced earlier, including the white paper *Low Income Taxpayers and the Affordable Care Act*, and a presentation entitled *Health Care Reform for Guest Workers in Vermont*. The presentation materials were shared with several Vermont assisters and VHC staff, and are posted to our public website.

We collaborated with VHC staff in several outreach and educational efforts this quarter. The HCA had two tax outreach planning meetings with VHC outreach staff, and was in frequent communication with VHC regarding tax outreach events and materials. HCA co-authored a presentation with VHC that was used at a training for tax preparers given by AHS Special Counsel for Health Reform Devon Green on November 20, 2014. We developed multiple presentations to be used in January 2015. We provided case examples and scenarios to VHC for use in trainings. We commented on VHC outreach materials.

See also descriptions of the presentations that the HCA's tax attorney gave at national conferences in the Outreach and Education section below.

## **F. Other Activities**

### **Plain Language Materials**

The HCA continues to advocate for the use of plain language in materials intended for health care consumers. This quarter we conducted additional research on health literacy and plain language, drafted a policy paper that will be released next quarter, and continued to encourage state agencies and health care provider organizations to use plain language in their health care communications. For example, we worked with the University of Vermont Medical Center to improve the readability of their draft notices to inform patients of their status as an inpatient or an outpatient under observation.

### **Policy Paper on Affordable Care Act Taxes and Penalties**

This quarter the HCA's tax attorney updated her policy paper entitled 'Low Income Taxpayers and the Affordable Care Act'. The paper outlines recently implemented components of the ACA that are relevant to low-income taxpayers and provides information about important ACA tax issues such as Individual Shared Responsibility Payments and Premium Tax Credits. The paper was originally completed in January 2014.

### **Other Boards, Task Forces, and Work Groups**

The HCA participated in:

- 2 Medicaid and Exchange Advisory Board (MEAB) meetings
- 2 Governor's Consumer Advisory Council meetings



- 2 MEAB Improving Access Work Group meetings (a subgroup of the MEAB which works on improving access to Medicaid services, which the Chief Health Care Advocate Chairs)
- 2 MEAB VHC Individuals and Families Work Group meetings
- 2 VHC Consumer Experience Work Group meetings
- 3 VHC Customer Support meetings with Maximus, VHC, DVHA and HAEU
- 1 Vermont Oral Health Care for All Coalition meeting

### **Legislative Activities**

HCA staff:

- Testified before legislative committees 2 times
- Attended 2 additional legislative hearings on health care
- Submitted a letter to Republican legislative leadership regarding reasons why Vermont should not move to the federal health insurance exchange

### **Administrative Advocacy**

The HCA:

- Commented on VHC notices 5 times
- Submitted multiple complaints and suggestions about VHC operations
- Submitted questions to VHC regarding open enrollment period processes
- Submitted comments to the MEAB Improving Access Work Group
- Submitted comments on proposed IRS Premium Tax Credit regulations
- Submitted comments to the Taxpayer Advocate Service on its Shared Responsibility Payment estimator
- Signed on to a letter from First Focus to Congress regarding CHIP renewal
- Submitted comments to Visiting Nurse and Hospice for VT and NH
- Submitted comments to VHC on ACA tax outreach and education materials
- Met and corresponded with DVHA about notices of decision for prior authorizations
- Met and corresponded with DVHA about Medicaid exceptions
- Met and corresponded with DVHA and SHIP about the VPharm annual notice
- Met and corresponded with SHIP/CVAA about VHC and Medicare
- Met and corresponded with VHC about ACA tax outreach and education
- Met with VHC about Optum
- Met with VHC about complaints and suggestions
- Met and corresponded with VHC about tax outreach and education issues
- Met with Congressional delegation staff about potential consumer problems related to upcoming ACA tax issues

### **Collaboration with other organizations**

The HCA worked with the following organizations this quarter:

- American Civil Liberties Union (ACLU)
- Blue Cross Blue Shield of Vermont
- Center on Budget and Policy Priorities

- Community of Vermont Elders
- Consumers Union
- Disability Rights Vermont
- Families USA
- Iowa Legal Aid
- National Health Law Program
- University of Vermont Medical Center
- Vermont Association of Hospitals and Health Systems
- Vermont Oral Health Care for All Coalition
- Vermont Campaign for Health Care Security
- Vermont Developmental Disabilities Council
- Vermont Health Connect
- Vermont Interfaith Action
- Vermont Medical Society
- Vermont Public Interest Research Group
- Vermont Workers' Center
- Voices for Vermont's Children

#### **Trainings**

- National Academy for State Health Policy Annual Conference, Innovations Ripe for the Picking, October 6-8, 2014
- Community Catalyst Learning Community Conference Call, Introducing New Resources for Community Benefit, October 9, 2014
- Consumers Union Conference Call, National Issues with Rate Review, October 14, 2014
- Center on Budget and Policy Priorities Webinar, Income and Household Composition for Premium Tax Credits and Medicaid, October 16, 2014
- National Academy for State Health Policy Webinar, Identifying Value in Multi-Payer Payment Reform: The Nuts and Bolts of Quality Measurement, October 16, 2014
- Center on Budget and Policy Priorities Webinar, Premium Tax Credit Reconciliation and the Marketplace Renewal Process, October 23, 2014
- Ohio Poverty Law Center and the Committee on Regional Training Webinar, The ACA and Family Law Cases: First Do No Harm, Then Do Good Things, November 7, 2014
- 2 Webinars with Mark Painter, Claims Edits, October 29, 2014 and December 10, 2014
- Centers for Disease Control and Prevention online training, Health Literacy for Public Health Professionals – Part 1, November, 2014

## **IV. 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](http://www.vtlawhelp.org/health)) with more

than 150 pages of consumer-focused information maintained by the HCA. Since the launch of Vermont Health Connect, we have worked diligently to keep the site updated in order to provide the latest and most accurate information to Vermont consumers.

We have improved our method of collecting health care site data through Google Analytics. Analysis of this data shows that the dramatic increases in the total number of pageviews that we have seen over the past two years as we worked to improve the health contents and design have leveled off somewhat. The statistics show that:

- The total number of health pageviews increased by 13% in the reporting quarter ending December 31, 2014 (3,649 pageviews), compared with the same quarter in 2013 (3,225 pageviews).
- Fewer Vermonters sought out information about Vermont Health Connect this quarter compared to the same quarter in 2013 (191 total pageviews in 2014 compared with 633 pageviews in 2013, a decrease of 70%).
- There was a sharp uptick in the number of people seeking information about Medicaid (1,163 pageviews this quarter compared with 450 in the same quarter in 2013, an increase of 158%). Vermont Law Help visitors to the Medicaid section were primarily seeking information about [Medicaid income limits](#), which accounted for 65% or 767 of total Medicaid pageviews.
- Pageviews of our Medicare information increased by 117% to 280 this year, compared with 129 in the same quarter last year. The Long Term Care/Choices for Care information drew 300 pageviews, a 110% increase over last year's 143.

#### **14 of Vermont Law Help's Top 30 PDF Downloads Were on Health Care Topics**

Health-related PDFs accounted for 300 out of 940 PDFs that were downloaded from the Vermont Law Help website during this quarter. The majority of these were high-level presentations and papers related to the Affordable Care Act or policy white papers covering other health care reform issues.

#### **High-Level Health Care Presentations and Papers and Health Care Policy Papers**

- Low-Income Taxpayers and the ACA for Non-Tax Lawyers, updated Nov-23-2014.pdf (103 downloads)
- Affordable Care Act - 2014 Tax Returns and Beyond.pdf (50 downloads)
- HCA Tax Training PowerPoint 10-22-14.pdf (48 downloads)
- The Health Care Assister Guide to Tax Rules.pdf (27 downloads)
- US Health Reform for H-2A workers in VT updated 9-9-2014 v3.pdf (12 downloads)
- The Limits of Cost Sharing.pdf (9 downloads)
- Protected Health Information - What Vermonters Should Know.pdf (7 downloads)
- Accountable Care Organizations - What is the Evidence.pdf (6 downloads)
- FAQ - Taxes and Vermont Health Connect.pdf (4 downloads)

#### **Other Health-Related PDF Downloads**

- Advance Directive for Health Care Long Form.pdf (10 downloads)
- Catamount or VHAP to Medicaid.pdf (8 downloads)

- May 31 2014 Health Fair flyer.pdf (7 downloads)
- Vermont Dental Clinics Chart - 2013.pdf (5 downloads)
- Vermont Medicaid Coverage Exception Request - 10 Standards and Provider Request Form.pdf (4 downloads)

## **B. Education**

During this quarter, the HCA provided education to approximately 430 individuals who serve populations that may benefit from the information and education provided.

### **Low Income Taxpayer Clinics (LITC) Networking Group** (October 7, 2014)

The HCA presented an ACA update to 16 tax attorneys at other legal services organizations around the country at a meeting of the Low Income Taxpayer Clinics (LITC) networking group.

### **Justice Quarterly** (October 24, 2014)

The HCA authored two articles in VLA's newsletter, Justice Quarterly. The newsletter is sent electronically to over 100 advocates, social service organizations, and interested parties in Vermont. One article reminded readers about the upcoming Open Enrollment Period at Vermont Health Connect. A second article, jointly submitted by HCA and the VLITP, flagged tax season issues related to the ACA.

### **VHC Discussion Forum** (October 24, 2014)

An HCA advocate participated as a panelist discussing VHC and Medicaid including open enrollment, APTC, rates and answering questions from the audience and other panelists at South Burlington High School, and distributed about 24 HCA brochures.

### **Beneficiary Engagement Committee of Community Health Accountable Care (CHAC)**

(December 4, 2014)

Presented to 8 people from provider organizations attending the Beneficiary Engagement Committee (BEC) of Community Health Accountable Care (CHAC) about what the HCA does and what we could do to support consumer representatives on CHAC's governing board and BEC, and distributed 25 brochures.

### **National Health Law Program (NHeLP) Conference** (December 8, 2014)

The HCA's tax expert presented an advanced session on MAGI Medicaid and Premium Tax Credit eligibility rules with a co-presenter from NHeLP to 44 health law attorneys at this national conference in Washington, DC. The presentation covered more complex rules and situations under the Modified Adjusted Gross Income rules, including when married individuals are considered unmarried for tax filing purposes, head of household filing status, and how to count the Social Security income of dependents.

### **Low Income Taxpayer Representation Workshop** (December 8, 2014)

The HCA's tax attorney gave an educational presentation on Premium Tax Credit rules and advocacy issues involving marriage, separation, and divorce, together with a co-presenter from

a national organization, the Center on Budget and Policy Priorities. This presentation was at a workshop sponsored by the Pro Bono and Tax Clinics Committee of the American Bar Association, and took place in Washington, DC. About 56 LITC advocates and tax attorneys attended.

**Low Income Taxpayer Clinic Presentation (December 11, 2014)**

The HCA's tax attorney gave a third presentation in Washington that same week. She sat on a panel with three other presenters at a training conference for the 2015 recipients of IRS Taxpayer Advocate Service Low Income Taxpayer Clinic (LITC) Grants. Over 200 advocates from all over the country attended this presentation. Topics included Premium Tax Credits, the ACA penalty, IRS assessment and collection issues, advocacy areas, and potential filing season pitfalls.