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OFFICE OF THE HEALTH CARE ADVOCATE

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QUARTERLY REPORT

July 1, 2015 – September 30, 2015

to the

Agency of Administration

submitted by

Trinka Kerr, Chief Health Care Advocate

October 21, 2015

NARRATIVE

I. Executive Summary

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. We also 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.

The full quarterly report for July 1, 2015 - September 30, 2015 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:** 1,015 calls (compared to 1,008 last quarter)
 - **Department of Vermont Health Access (DVHA) beneficiaries:** 287 calls or **28%** of total calls (compared to 298 and 30% last quarter)
 - **Commercial plan beneficiaries:** 278 calls or **27%** (348 and 35%)
 - **Uninsured Vermonters:** 152 calls or **15%** (89 and 8%)
 - **Vermont Health Connect (VHC):** 470 calls or **46%** (509 and 50%; the VHC data report draws from the All Calls data set)
 - **Two Reportable Activities (Summary & Detail):** 119 activities, 36 documents (168 and 33)

Highlights

- Total call volume was about the same as last quarter (1,015 versus 1,008), and slightly lower (7%) than the same quarter last year (1,096).

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

- Vermont Health Connect (VHC) calls decreased slightly (8%) since last quarter (470 compared to 509 last quarter), but were more than the same quarter in 2014 (440).
- VHC change of circumstance (COC) cases continued to decrease and fell an additional 14% after the 30% decrease in the previous quarter.
- Problems with the VHC billing process continued to be the top reason for calling the HCA and calls increased by 10%.
- An increased number of people called about premium payment grace periods and coverage terminations: grace period inquiries more than doubled over last quarter.
- More people are appealing VHC decisions to the Human Services Board, which has been unable to keep up with the increased volume.
- The HCA handled about the same number of Affordable Care Act tax-related questions this quarter as last quarter.
- We saved individual consumers \$110,207.49 in cases opened this quarter. So far in calendar year 2015 we have saved Vermonters \$449,152.36.
- We represented the public before the Green Mountain Care Board in two major rate review proceedings (for the 2016 VHC plans), a major certificate of need proceeding (for a new inpatient bed facility brought by the University of Vermont Medical Center), and the fourteen annual hospital budget reviews.
- The number of people who used our website to find information and guidance on health care issues continued a pattern of strong growth with 72% more pageviews this quarter, compared with the same period in 2014.
- The number of people seeking information about [dental services](#) continued to increase significantly (600%) over last year, as it has the past two quarters, and our Vermont Dental Clinics Chart was the 6th most downloaded PDF from the entire Vermont Law Help website.
- We had five articles published and gave five presentations to audiences ranging from consumers to community partners who serve the public to lawyers and tax professionals. Additionally, we worked to improve three State communications to consumers regarding VHC issues.

II. Individual Consumer Assistance

The HCA provides assistance to consumers through our statewide helpline (**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 which provides this help to any Vermont resident free of charge, regardless of income.

The HCA received 1,015 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:

- **21.38%** (217) about **Access to Care**;
- **14.98%** (152) about **Billing/Coverage**;
- **1.58%** (16) about **Buying Insurance**;
- **9.56%** (97) about **Consumer Education**;
- **27.98%** (284) about **Eligibility** for state and federal programs; and
- **24.53%** (249) 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 284 of our cases had eligibility for state health care programs as the primary issue, there were actually a total of 737 cases that had some eligibility issue. This is because it is possible to have multiple types of 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.

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

A. The HCA’s overall call volume was about the same as last quarter and 7% lower than the same quarter last year.

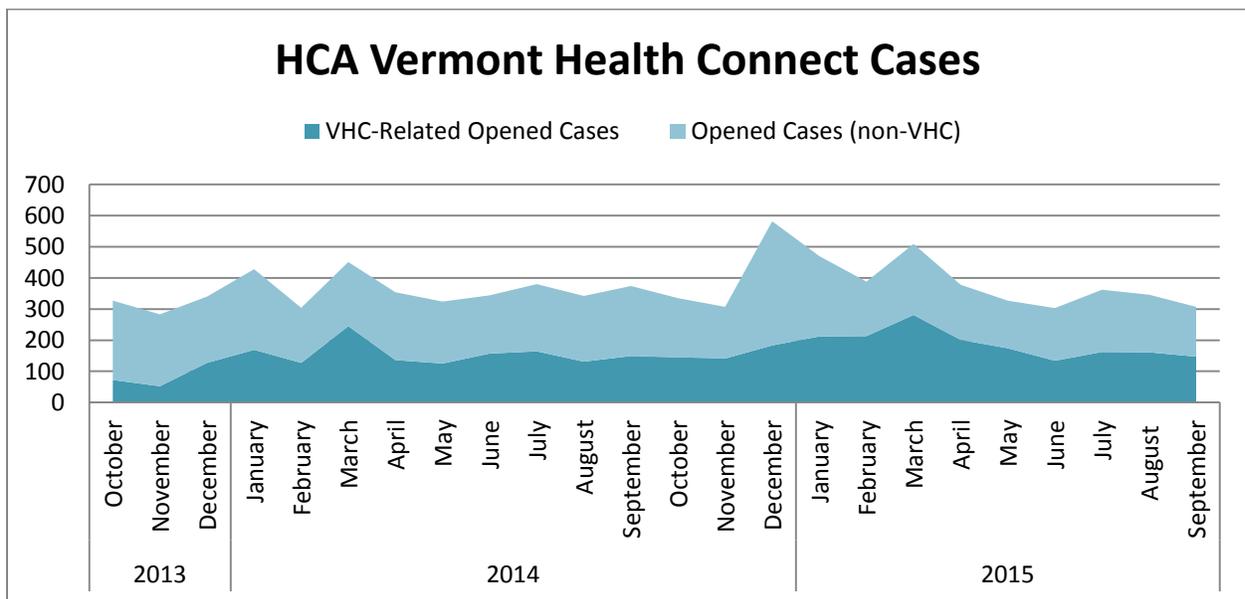
Last quarter we had a 26% decrease in calls from the previous quarter, and that lower call volume has continued. In the first quarter of calendar year 2015 we had a record call volume of 1,367. In the second quarter we received 1,008 calls, and in this quarter we received 1,015. This compares to 1,096 for the same quarter in 2014, a 7% decrease. August volume set the record for that month, but July and September were lower than last year’s record volume. Notably we have already exceeded the total call year volume for every year prior to the launch of VHC, and we have three more months to go to complete the year!

| All Cases (2005-2015) | | | | | | | | | | | |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
| January | 178 | 313 | 280 | 309 | 240 | 218 | 329 | 282 | 289 | 428 | 470 |
| February | 160 | 209 | 172 | 232 | 255 | 228 | 246 | 233 | 283 | 304 | 388 |
| March | 188 | 192 | 219 | 229 | 256 | 250 | 281 | 262 | 263 | 451 | 509 |
| April | 173 | 192 | 190 | 235 | 213 | 222 | 249 | 252 | 253 | 354 | 378 |
| May | 200 | 235 | 195 | 207 | 213 | 205 | 253 | 242 | 228 | 324 | 327 |
| June | 191 | 236 | 254 | 245 | 276 | 250 | 286 | 223 | 240 | 344 | 303 |
| July | 190 | 183 | 211 | 205 | 225 | 271 | 239 | 255 | 271 | 381 | 362 |
| August | 214 | 216 | 250 | 152 | 173 | 234 | 276 | 263 | 224 | 342 | 346 |
| September | 172 | 181 | 167 | 147 | 218 | 310 | 323 | 251 | 256 | 374 | 307 |
| October | 191 | 225 | 229 | 237 | 216 | 300 | 254 | 341 | 327 | 335 | n/a |
| November | 168 | 216 | 195 | 192 | 170 | 300 | 251 | 274 | 283 | 306 | n/a |
| December | 175 | 185 | 198 | 214 | 161 | 289 | 222 | 227 | 340 | 583 | n/a |
| Total | 2200 | 2583 | 2560 | 2604 | 2616 | 3077 | 3209 | 3105 | 3257 | 4526 | 3390 |

B. Vermont Health Connect calls decreased 8%, but many problems continued.

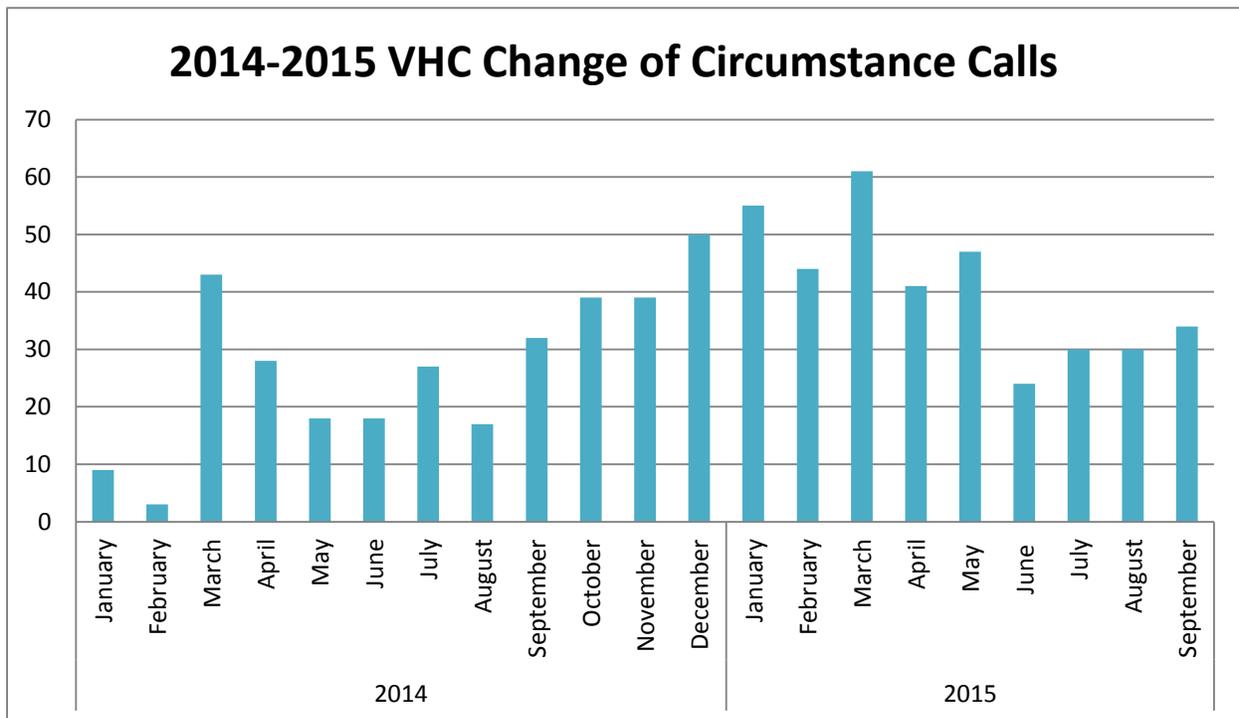
Problems with VHC continued, but since the technology upgrades of the Release 1 (R1) deployment at the end of May there has been some improvement. VHC call volume decreased slightly (8%) this quarter after a big drop last quarter (28%). This quarter we received 470 calls related to VHC, compared to 509 the previous quarter, and 706 in the first quarter of the calendar year. VHC calls were running at 400-500 per quarter until the first quarter of this year, which was when renewals went into effect and we had a very big increase. The VHC call volume has dropped back to the previous level.

The HCA has worked with VHC staff to resolve problems and escalate cases in which Vermonters need immediate access to care. We now have weekly meetings with VHC staff to resolve our more complex cases. When we first started these meetings, our list of cases to be resolved was usually 40 to 50 each week. We are now down to around 30.



C. Vermont Health Connect change of circumstance cases continued to decrease, and fell 14% this quarter.

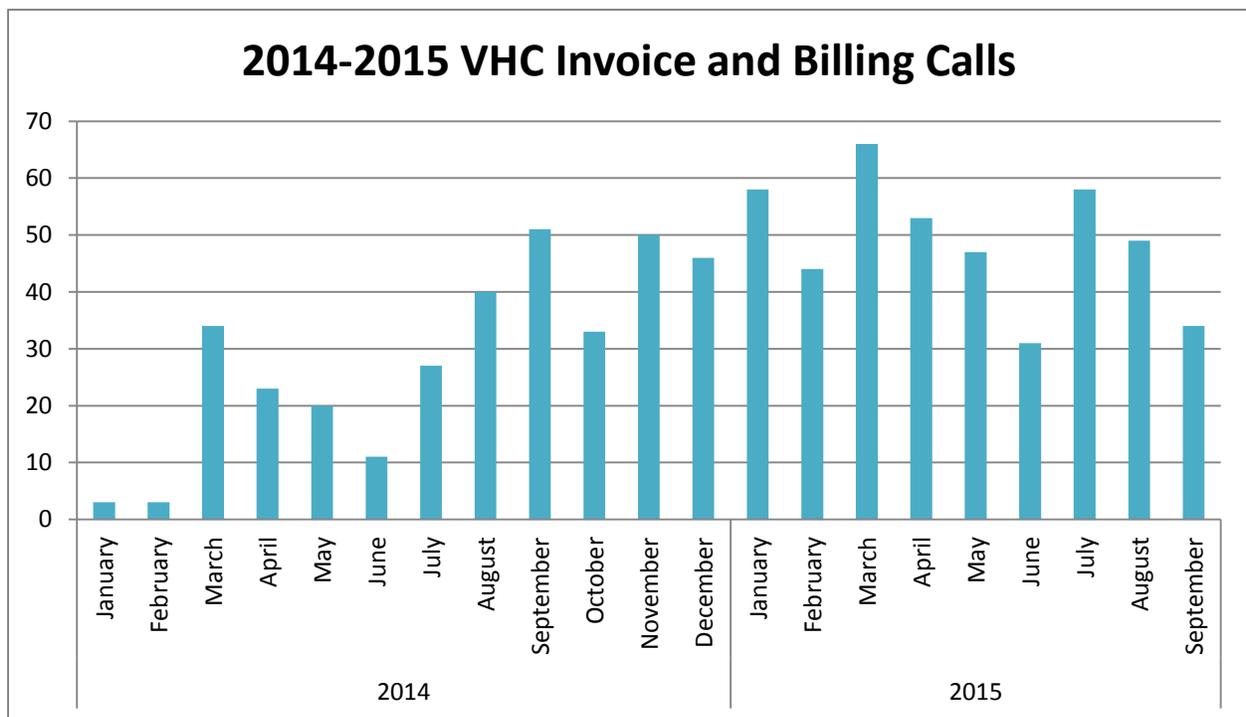
VHC had been plagued by problems resulting from the lack of technological capacity to process changes in customers’ circumstances. Since the deployment of R1 at the end of May, however, this situation has been improving. The number of COC cases has continued to decline, from 155 in the first quarter of CY 2015, to 109 last quarter, and now down to 94 this quarter, when primary and secondary issues are counted. There was a 30% drop from the first to second quarter, and an additional 14% decrease this past quarter.



D. The number one complaint from HCA callers is about Vermont Health Connect billing and payment problems, which increased 10 %.

Many consumers who purchased Qualified Health Plans (QHP) from VHC continued to have invoicing and billing problems. This is the number one complaint about VHC, and is the issue generating the most calls overall. The problems include non-receipt of invoices, delays in processing, delays in applying premiums to the correct account, delays in actually getting coverage, and lost payments. In some cases, the premium problems caused a consumer’s coverage to incorrectly be closed because they were not credited for payments they had actually made. Many were related to COC difficulties.

This quarter we received 141 calls involving invoices, billing and premium processing, compared to 128 last quarter, a 10% increase. We received 164 the previous quarter, and 125 the quarter before that, when primary and secondary issues are counted. We received 29 billing complaint calls in June, 58 in July, 49 in August and 34 in September.



E. More people are calling about premium payment grace periods and terminations.

VHC has specific and limited grace periods for catching up on premium payments. Individuals who do not get Advance Premium Tax Credits get a one month grace period, and those with APTC get three months. Because the carriers are now terminating coverage for non-payment more frequently, we are getting more inquiries about grace periods and terminations. This quarter we got 86 calls related to grace periods, compared to 43 last quarter, and 57 termination cases compared to 41.

The HCA is working with VHC and the carriers to revise the grace period notices to make them more understandable.

F. Human Services Board appeals about VHC decisions are increasing.

Calls requesting help with Fair Hearings before the Human Services Board (HSB) about VHC decisions almost doubled this quarter, 43 compared to 23. The HSB has told the HCA that the number of hearings requested has more than doubled since 2007. In 2007 they had 585 appeals; this year they predict 730 VHC appeals alone, part of a total of around 1,400 appeals. Last year the HSB handled 480 VHC appeals. Many of the cases are the result of VHC technology problems which are waiting to be resolved and about which there are no factual disputes. VHC's struggle to make changes to accounts has caused problems lasting many months for some consumers, who have turned to the HSB to get resolution of their problems.

VHC and DVHA are working with the carriers and the HCA to come up with ways to improve the appeals process and to get resolution of cases earlier to avoid such extensive use of the appeals system.

G. Affordable Care Act tax problems continued.

The HCA answered tax-related questions from VHC, tax preparers, health assisters, and consumer advocates in Vermont and in other states. The volume of questions addressed to the HCA's tax attorney was approximately the same as last quarter (62 compared to 64 last quarter). This quarter, many of the questions involved IRS tax return processing and audit procedures, or the Advance Premium Tax Credit reconciliation rules. One consumer was referred to the Vermont Low Income Tax Project² for representation in an IRS audit of the Premium Tax Credit, which was complicated by multiple VHC errors.

See a full discussion of our tax-related work below on pages 16-18.

² The VLITP is another project within Vermont Legal Aid funded by the IRS. The HCA's tax attorney splits her time between the HCA and the VLITP.

H. The top issues generating calls

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

All Calls 1,015 (compared to 1,008 last quarter)

1. VHC Invoice/billing Problem 141 (128)
2. VHC complaints 119 calls (compared to 151 last quarter)
3. Complaints about providers 100 (99)
4. VHC Change of Circumstance 94 (109)
5. Grace Periods-VHC 86 (42)
6. Access to Prescription Drugs 82 (58)
7. MAGI Medicaid eligibility 60 (79)
8. Information about DVHA programs 59 (79)
9. Affordability issue that created an access problem 59 (56)
10. Information about VHC 58 (96)
11. Termination 57 (41)
12. VHC Premium Tax Credit eligibility 46 (78)
13. Consumer Education about Fair Hearings 43 (23)
14. Consumer Education about Medicare 40 (38)
15. DVHA/VHC Premium billing 39 (65)
16. Medicaid eligibility (non-MAGI) 36 (54)
17. Special Enrollment Periods (eligibility) 35 (43)
18. DCF/HAEU Mistake 29 (31)
19. Hospital billing 26 (24)
20. Medicaid billing 24 (35)

Vermont Health Connect Calls 470 (compared to 509 last quarter)

1. VHC Invoice/Payment/Billing problem 141 (126)
2. VHC complaints 118 (118)
3. Change of Circumstance 92 (109)
4. Grace Periods –VHC 86 (42)
5. MAGI Medicaid eligibility 56 (65)
6. Information about VHC 55 (91)
7. Termination 50 (35)
8. Premium Tax Credit Eligibility 46 (78)
9. DVHA/VHC Premium billing 38 (62)
10. Access to Prescription Drugs 38 (12)
11. Consumer Education about Fair Hearings 36 (12)
12. DCF/HAEU Mistake 29 (29)

DVHA Beneficiary Calls 287 (compared to 298 last quarter)

1. Complaints about Providers 43 (43)

2. Access to Prescription Drugs 43 (28)
3. Information about DVHA programs 26 (46)
4. Choosing/Changing Providers 20 (13)
5. MAGI Medicaid eligibility 19 (37)
6. Transportation 18 (12)
7. Affordability 17 (18)
8. Medicaid Billing 17 (30)
9. Change of Circumstance 13 (21)
10. Balance billing-Medicaid 13 (16)
11. Primary Care Doctor (access to) 13 (7)

Commercial Plan Beneficiary Calls 278 (compared to 348 last quarter)

1. VHC invoice/payment problem 84 (96)
2. VHC complaints 66 (105)
3. Change of Circumstance 47 (68)
4. Grace Periods-VHC 44 (38)
5. Information about VHC 33 (57)
6. DVHA/VHC premiums billing 25 (54)
7. Premium Tax Credit eligibility 23 (47)
8. Termination 18 (3)
9. DCF/HAEU Mistake 16 (25)
10. Disenrollment 15 (11)

I. Hotline call volume by type of insurance:

The HCA received 1,015 total calls this quarter. Callers had the following insurance status:

- **DVHA program beneficiaries** (Medicaid, VPharm, or both Medicaid and Medicare aka “dual eligibles”) insured **28%** (287 calls), compared to 30% (298) last quarter;
- **Medicare³ 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 **16%** (165), compared to 18% (184) last quarter;
- **Commercial plan beneficiaries** (employer sponsored insurance, small group plans, or individual plans) insured **27%** (278), compared to 35% (348) last quarter; and
- **Uninsured** callers made up **15%** (152) of the calls, compared to 8% (89) last quarter.
- In the remainder of calls insurance status was either unknown or not relevant.

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

J. Dispositions of closed cases

All Calls

We closed 1,083 cases this quarter, compared to 1,065 last quarter.

- 30% (321 cases) were resolved by brief analysis and advice;
- 24% (259) were resolved by brief analysis and referral;
- 28% (304) of the cases were complex interventions involving complex analysis, usually direct intervention, and more than two hours of an advocate's time;
- 12% (128) were resolved by direct intervention, including calling an insurance company, calling providers, writing letters, gathering supporting medical documentation, etc.;
- 1 consumer was represented in a commercial plan internal appeal, and 1 in a DVHA internal appeal;
- 5 cases were resolved in the initial call.
- In the remaining cases, clients withdrew, resolved the issue on their own, or had some other outcome.

- Appeals: The HCA assisted 37 individuals with appeals: 2 commercial plan appeals, 27 Fair Hearings, 4 VHC expedited internal hearings, 2 DVHA internal MCO appeals and 2 Medicare appeals. Most of our cases involving VHC and DVHA problems are resolved without using the formal appeals process.

DVHA Beneficiary Calls

We closed 309 DVHA cases this quarter, compared to 329 last quarter.

- 33% (102 cases) were resolved by brief analysis and advice;
- 29% (90) were resolved by brief analysis and referral;
- 18% (55) were considered complex intervention, which involves complex analysis, usually direct intervention, and more than two hours of an advocate's time;
- 15% (46) were resolved by direct intervention on the caller's behalf, including advocacy with DVHA and providers, writing letters, and gathering medical information;
- 4 DVHA cases were resolved in the initial call.
- In the remaining cases, clients withdrew, resolved the issue on their own, or had some other outcome.

- Appeals: 7 cases involved appeals on behalf of DVHA program beneficiaries: 4 Fair Hearings, 2 internal MCO appeals, and 1 Medicare Part D appeal.

Commercial Plan Beneficiary Calls

We closed 293 cases involving individuals on commercial plans, compared to 381 last quarter.

- 28% (83 cases) were resolved by brief analysis and advice;
- 12% (34) were resolved by brief analysis and referral;

- 37% (115) were considered complex intervention, which involves complex analysis, usually direct intervention, and more than two hours of an advocate's time;
- 15% (45) were resolved by direct intervention on the caller's behalf, including advocacy with the carrier and providers, writing letters, and gathering medical information;
- Just one call from a commercial plan beneficiary was resolved in the initial call.
- In the remaining cases clients withdrew, resolved the issue on their own, or had some other outcome.
- Appeals: 30 cases involved appeals for individuals on commercial plan: 2 Level 1 internal appeals, 23 Fair Hearings, 4 Expedited Fair Hearings, and 1 Medicare Part A appeal.

K. Case outcomes

All Calls

The HCA helped 105 people get enrolled in insurance plans and prevented 17 insurance terminations or reductions. We obtained coverage for services for 39 people. We got 23 claims paid, written off or reimbursed. We helped 2 people complete applications and estimated VHC insurance program eligibility for 14 more. We provided other billing assistance to 54 individuals. We obtained hospital patient assistance for 1 person. We provided 539 individuals with advice and education. We obtained other access or eligibility outcomes for 91 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 \$110,207.49** in cases opened this quarter. So far in calendar year 2015 we have saved Vermonters **\$449,152.36**.

L. Case examples

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

1. Worker went without health insurance due to incorrect information from VHC. Mr. A called the HCA because he did not have health care coverage and had been told by VHC that he was not eligible. An outdoor worker, he was worried about an accident or injury. Earlier in the year he had coverage through his employer, but lost that coverage when the job ended. Before his employer coverage had ended, he had called VHC to find out how and when to apply for coverage due to losing employer sponsored insurance. He was told incorrectly that he could not apply for VHC coverage until he had actually lost the coverage. So Mr. A did not apply. He then left the state to work at

a short-term temporary job. When he returned to Vermont he called VHC again. This time he was told that he could not enroll because he had missed his 60 day Special Enrollment Period (SEP) from the loss of employer sponsored insurance. The HCA advocate contacted VHC on his behalf and asked that he be given another SEP because of the incorrect information he had been given earlier. Under VHC rules Mr. A should have been able to apply the first time he called VHC. VHC granted another SEP, and Mr. A signed up for coverage.

2. Mr. B could not afford his medications because VHC did not process his change in circumstance (loss of income). He needed the medication to prevent seizures and he was afraid to skip it. His VHC plan had been cancelled for non-payment. In 2014, Mr. B had called VHC to let them know that he had lost his job. His lower income made him eligible for Medicaid. VHC, however, did not process the income change so Mr. B's Qualified Health Plan (QHP) was not cancelled and he was not enrolled in Medicaid. When VHC processed his renewal for 2015 it did not address the income change. This meant that Mr. B was auto-renewed onto the same QHP. Mr. B did not pay the premiums because he could not afford them after losing his job. The QHP was eventually closed for non-payment, but Mr. B was still not enrolled in Medicaid. Immediately after he called the HCA for help, the HCA advocate contacted VHC which activated Mr. B's Medicaid within hours so he was able to get his prescriptions that day.
3. Mr. C keeps his Medicaid coverage and gets his stepson onto insurance with assistance from the HCA. Mr. C received a notice from VHC saying that his Medicaid was going to be terminated because he was over income, and that he needed to enroll in a QHP through VHC. Mr. C called the HCA for help. He told his advocate that his stepson had just found a job, and that the income from that job had put the household over the Medicaid limit. He also noted that his stepson was uninsured. Upon investigation, the advocate learned that Mr. C did not claim the stepson as a dependent on his taxes. This meant that under Medicaid rules, the stepson's new income should not have been included in the eligibility calculations. Without the new income from the stepson's job, Mr. C remained eligible for Medicaid. The advocate also requested that the stepson be screened for a QHP with premium tax credits. In the end, Mr. C remained on Medicaid and his stepson got a plan with significant premium tax credits.
4. Ms. D called the HCA because she did not have any health care coverage, needed medical care, and was receiving calls from collection agencies for unpaid medical bills. She had applied for coverage through VHC six months earlier but her application had not been processed. The HCA advocate investigated and found that VHC had a record of

the March application. The advocate contacted VHC on Ms. D's behalf. Within days VHC found her eligible for Medicaid retroactively to March 1, so her providers could be paid.

M. Recommendations to the State of Vermont

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

VHC billing problems were the number 1 reason Vermonters contacted the HCA this quarter. This is the third quarter in a row in which VHC billing cases exceeded change of circumstance complaints. Billing problems can cause a cascade of hassles for consumers.

- 2. Improve the grace period and termination notices for VHC plans.*

A work group has started meeting about this.

- 3. Improve the VHC appeals process.*

A work group has started meeting about this.

III. Consumer Protection Activities

A. Rate Reviews

The HCA monitors all insurance carrier requests for changes in premium rates, which are usually rate increases. Carriers filed three rate review requests with the Green Mountain Care Board this quarter. The HCA entered Notices of Appearance in all three, and none were ready for hearing during the quarter.

Two important rate review cases were pending at the beginning of the last quarter: the two filings for plans to be offered on VHC in 2016 by Blue Cross Blue Shield of Vermont (BCBSVT) and MVP. The two carriers filed their requests for rate increases on May 15, 2015. The HCA worked closely with its independent actuary, Donna Novak of NovaRest, to analyze the exchange filings and to suggest questions that the Board's actuaries, Lewis and Ellis (L & E) should pose to the carriers. Ms. Novak also prepared an expert report and testified at the hearings held on July 28 and July 29, 2015, at the Green Mountain Care Board.

Members of the public testified orally at the BCBSVT hearing, and almost 500 members of the public submitted written comments. Most of these expressed concern about the affordability of health insurance products on VHC.

BCBSVT, which insures more than 65,000 Vermonters through VHC, requested an 8.6 percent average annual rate increase. The Board modified the request and approved a 5.9 percent

annual increase. The Board's actuary, L & E, and the HCA recommended a number of small decreases to the requested rate which were adopted by the Board. The Board made additional small adjustments to the requested rate as well. The HCA argued for, and the Board approved, a 1% contribution to surplus rather than the 2% contribution requested by the carrier.

MVP, which insures approximately 6,500 Vermonters through VHC, requested a 3 percent average annual rate increase. The carrier tried to keep its rate increase for 2016 low so that its products could be competitive with those offered by BCBSVT in the VHC marketplace. The Board approved a 2.4 percent increase for MVP based on recommendations from L & E and the HCA.

B. Certificate of Need Applications

The HCA monitored all CON proceedings before the Board. This quarter we focused primarily on the University of Vermont Medical Center's Inpatient Bed proposal and the new Green Mountain Surgery Center application.

- UVM Medical Center's Inpatient Bed: During the last quarter the Board released its decision approving this CON application with modifications. UVM MC responded by asking for clarification and modification of the order. We reviewed the Board's decision, attended two status conferences, reviewed UVM MC's motion to modify and request for clarification on the decision, attended the hearing on UVM MC's motion to modify where we submitted oral testimony, reviewed UVM MC's alternative financing plan submitted in September 2015, and submitted questions in response to UVM MC's financing plan.
- Green Mountain Surgery Center: This was a new CON application this quarter. We submitted a Notice of Appearance as an interested party, and submitted questions to the applicant. Our questions included requests for: more information regarding the applicant's plans for accreditation; peer reviewed support for the applicant's claims of cost, quality, and patient experience benefits resulting from this type of model; potential weaknesses with the proposed model; opportunities provided for patient input when planning the model; price transparency; and the facility's financial assistance policies.

C. Hospital Budgets

The HCA participated in the Board's hospital budget process this summer. Prior to the public hearings we reviewed the information each of the state's fourteen hospitals submitted to the Board, including their Community Health Needs Assessments (CHNAs). We also reviewed each hospital's financial assistance policy (FAP) in light of the new federal regulations on this topic which go into effect on January 1, 2016. We submitted suggested questions to the Board and

attended the three days of hearings in August. After the hearings we submitted comments on the hospital budgets which focused on: the hospitals' lack of compliance with the new FAP rules; hospital consolidation and integration; access to care; evidence-based medicine; and the hospitals' CHNAs.

D. Other Green Mountain Care Board Activities

In the last quarter, we attended the following Board events:

- Weekly GMCB meetings (8)
- Monthly Data Governance Meetings (3)
- Additional meetings with Staff (5) – some general meetings and others specifically focusing on the topic of the Board's work towards an all-payer model

E. Vermont Health Care Innovation Project

The HCA continues to participate in the Vermont Health Care Innovation Project (VHCIP), which is funded by a federal 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 6 of the 7 VHCIP work groups:
 - Payment Models Work Group
 - Quality and Performance Measures Work Group
 - Population Health Work Group
 - Care Models and Care Management Work Group
 - Disability and Long Term Services and Supports Work Group
 - Health Information Exchange/Health Information Technology Work Group
- Attended 5 VHCIP work group meetings
- Attended 2 meetings of the VHCIP Core Team as an interested party
- Attended the CMMI Site Visit Stakeholder Meeting
- Submitted formal comments to the VHCIP Core Team regarding Accountable Care Organization consumer engagement
- Submitted formal comments to the VHCIP Payment Models Work Group regarding the total cost of care for the Medicaid Shared Savings Program
- Submitted comments on a draft survey for people participating in the Care Management Learning Collaborative

F. Affordable Care Act Tax-related Activities

During this quarter, the HCA continued its tax-related advocacy and outreach efforts to ensure that consumers maintain access to affordable health care. Consumers who lack an understanding of how the tax system interacts with the health insurance system, or who have

difficulty navigating the tax filing process, are in danger of losing access to subsidized health insurance.

Eligibility for advance payments of the federal Premium Tax Credit (APTC) is contingent upon reconciliation of any prior year APTC. Consumers who received APTC for 2014 will not be eligible for APTC in 2016 unless they reconcile their APTC on a 2014 tax return. Vermont Premium Assistance also requires eligibility for APTC, so a consumer who does not reconcile APTC will have an unsubsidized QHP premium.

The reconciliation requirement is complicated by the problems consumers had in getting accurate and timely tax forms from VHC for 2014. The HCA is concerned that errors made by VHC or Benaissance, VHC's payment processing vendor, could prevent some consumers from reconciling their 2014 APTC in time to receive APTC for 2016.

In the spring of 2015 VHC and other health insurance marketplaces sent tax form 1095-A to consumers and to the IRS. Form 1095-A reports the details of a person's health insurance coverage and the details of any advance payments of the Premium Tax Credit (APTC). Unfortunately, as detailed in our last two quarterly reports, the new tax form got off to somewhat of a rocky start. Many 1095-A forms arrived late or were incorrect. Some consumers discovered when they got their 1095-A that VHC had not processed a coverage change or a plan cancellation that they'd requested in 2014.

In this quarter we continued to assist consumers with problems related to forms 1095-A from VHC. The HCA helped many consumers get account changes made and get amended tax forms from VHC. In the most complicated cases, consumers' reconciliation problems may affect their access to APTC for 2016. HCA is monitoring this issue closely.

In July and August, many Vermont consumers received IRS notification that they had failed to reconcile their 2014 APTC, and would not be eligible for 2016 APTC unless they remedied the error. Some of these consumers had actually filed tax returns, but had failed to include Form 8962 to reconcile their APTC. These consumers generally did not understand the reconciliation requirement or why they had received the IRS notice. HCA engaged in significant consumer education on APTC reconciliation issues.

During this quarter, the HCA continued to employ 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 tax law developments and support our staff to effectively field calls related to the ACA and VHC. The tax attorney consulted with HCA advocates when particularly difficult IRS-related issues arose in individual HCA cases.

HCA continued to communicate with VHC regarding substantive tax issues as they arose. One issue we discussed this quarter was the extent to which consumers who enroll in a Qualified

Health Plan directly through the carriers for 2016 coverage⁴ will be able to switch to coverage through VHC in order to receive APTC if their income decreases during the year.

To address consumers' confusion and misunderstanding of the tax implications of the Affordable Care Act, the HCA engaged in a significant number of outreach and education activities. They are detailed below in the Outreach and Education section.

G. Other Activities

Article on the ACA and Indian Health Care

The HCA's tax attorney published an article in the American Bar Association (ABA) Section of Taxation's *NewsQuarterly*, exploring the impact of the ACA on American Indian and Alaska Native consumers. *The ACA, the Service, and the Indian Health Care Delivery System* was co-authored with Heather Erb, an attorney in private practice in Washington State. The article addresses the intersection of the ACA and Indian tax issues and offers recommendations for addressing the unique Indian tax issues related to enrollment in the state and federal health insurance marketplaces. All members of the ABA Section of Taxation receive a copy of the *NewsQuarterly*.

Rule 09-03 Work Group

The HCA is actively involved in this work group which was set up in Act 54 of the 2015 legislative session. The work group's purpose is to help the Agency of Administration, the Green Mountain Care Board and the Department of Financial Regulation evaluate the necessity of maintaining provisions for regulating insurers in Rule 09-03, which contains consumer protection and quality requirements for managed care organizations, and other regulations governing quality and consumer protection. The group is also assessing which state entity is the appropriate one to be responsible for functions set forth in the regulations. The group met twice during the quarter.

2017 Qualified Health Plan 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 Qualified Health Plans offered on Vermont Health Connect in 2017. The group met twice during the quarter.

Legislative Activities

This quarter the HCA monitored the activities of the few legislative committees that took up issues related to health care and health reform while the legislature was not in session.

This quarter, we:

- Testified before the House Health Care Committee

⁴ Previously individuals could only enroll in QHPs through VHC. This year the legislature mandated that individuals who are not eligible for APTC may enroll directly through the carriers.

- Attended 2 meetings of the Joint Fiscal Committee
- Attended 3 meetings of the Health Reform Oversight Committee
- Met and collaborated with other advocates on legislative initiatives, including participation in a 2-day meeting of the Oral Health Care for All leadership team

Administrative Advocacy

This quarter, the HCA:

- Submitted 1 formal comment suggesting changes to a confusing IRS notice
- Submitted formal comments on the IRS Taxpayer Advocate Service's Employer Shared Responsibility Estimator Tool
- Submitted formal comments on a draft DVHA rule on direct enrollments and QHP certification.
- Met with AHS to discuss Vermont's long-term care programs and their relationship to AHS's Health Benefits Eligibility and Enrollment (HBEE) rule, which implements the Affordable Care Act in Vermont. HCA advocated for clearer public guidance and emphasized the need to address outdated regulations that conflict with the HBEE rule.
- Participated in 1 meeting about VHC fair hearings
- Corresponded with the Human Services Board (HSB) about its new VHC appeal form
- Submitted comments on a HSB VHC appeal form
- Participated in 1 meeting about VHC notices
- Participated in 1 meeting about VHC direct enrollment
- Participated in 8 meetings about the VHC case escalation path
- Submitted formal comments on VHC regulations
- Submitted two sets of comments on VHC notices
- Submitted comments on a draft billing and enrollment timeline document addressing VHC's new enrollment and recurring billing and dunning policy
- Submitted comments on VHC's "Introduction to VHC" booklet
- Submitted numerous complaints and suggestions to VHC
- Met with DVHA Commissioner Steven Costantino about stakeholder engagement

Other Boards, Task Forces, and Work Groups

This quarter the HCA participated in:

- 2 Rule 09-03 Review Work Group meetings
- 2 Qualified Health Plan Stakeholder Work Group meetings
- 2 Medicaid and Exchange Advisory Board (MEAB) 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 VHC Consumer Experience Work Group meetings
- 1 informal meeting with Community Health Accountable Care
- 1 Community Health Accountable Care Consumer Advisory Board meeting
- 1 conference call with Community Catalyst and consumer advocacy organizations in other states

- 1 conference call with the Agency of Administration *et al.*, about the Rule 09-03 Work Group
- 2 State HIT Plan Workshops
- 2 UVM Medical Center Mental Health Program Quality Committee meetings
- 1 42 CFR Part 2 Advisory Group meeting
- 1 Act 75 Unified Pain Management Advisory Council meeting

Additionally, the HCA submitted:

- Comments to Community Health Accountable Care providing feedback on its first Consumer Advisory Board meeting
- Comments to AHS on the Global Commitment to Health Comprehensive Quality Strategy
- 2 sets of federal comments on ACA provisions

Collaboration with other organizations

The HCA worked with the following organizations this quarter:

- American Bar Association Section of Taxation Individual and Family Tax Committee
- American Civil Liberties Union
- Bi-State Primary Care Association
- Community of Vermont Elders
- Families USA
- Iowa Legal Aid
- IRS Taxpayer Advocate Service
- Northwest Health Law Advocates
- Peoples Health and Wellness Clinic
- Planned Parenthood of Northern New England
- Vermont Association of Hospitals and Health Systems
- Vermont Oral Health Care for All Coalition
- Vermont Dental Hygienists' Association
- Vermont Health Connect
- Vermont Information Technology Leaders
- Vermont Low Income Advocacy Council
- Vermont Public Interest Research Group
- Voices for Vermont's Children

Trainings

The HCA participated in the following trainings:

- 7/9: The Lewin Group Consumer Advisory Committees Webinar - Recruiting and Retaining Members for Engagement
- 7/15: Consumer's Union Rate Review Conference Call
- 7/21: Appeals in the Marketplace
- 8/11: IRS Webinar - Information Reporting by Applicable Large Employers on Employer-Sponsored Health Coverage

- 8/20: IRS Webinar - Affordable Care Act: Employer Shared Responsibility Provisions and Information Reporting
- 8/26: IRS Webinar - The Affordable Care Act: Information Reporting of Minimum Essential Coverage
- 8/27: The Affordable Care Act and Its Impact on Family Law
- 9/16: NASHP Webinar - From Engagement to Evidence: Using PCOR and CER to Inform State Policymaking
- 9/18: Consumer's Union All Payer Claims Database Webinar
- 9/18: Employment Law and the ACA
- 9/25: Panelist at the Vermont Bar Association Fall Meeting
- 9/30: Vermont Information Technology Leaders Summit

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) 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 show:

- The total number of health pageviews increased by 72% in the reporting quarter ending September 30, 2015 (5,764 pageviews), compared with the same quarter in 2014 (3,350 pageviews).
- The number of people seeking information about [dental services](#) continued to increase significantly (600%) over last year, as it has the past two quarters. (217 pageviews this quarter, compared with 31 in the same period last year)
- This quarter, again like the previous two quarters, showed a large increase over last year in the number of people seeking information about [Medicaid income limits](#) (1,301 pageviews this quarter, compared with 248 in the same quarter in 2014, an increase of 425%). The consistently high numbers indicate that search engines are delivering this page as a high-ranking source of information about Medicaid income limits.
- The health home page had the second largest number of pageviews (887), an increase of 50% over last year's 591.
- Six of the 10 topics with the largest number of pageviews focused on Medicaid or long-term care Medicaid (Choices for Care).
- Other popular topics included:
 - [Health Insurance, Taxes and You](#) (New this year/no comparative data)

- [Medical Decisions, Advance Directives and Living Wills](#) (+60%)
- [Federally Qualified Health Centers \(FQHCs\)](#) (+147%)
- While the number of people searching for information about [Buying Prescription Drugs](#) (+9%) and [Complaints](#) (things to consider before making a complaint against a provider) (+50%) still increased, those pages fell out of the top 15 to 17th and 29th, respectively.

PDF Downloads

Thirty-five out of 84 or 41% of the unique PDFs downloaded from the Vermont Law Help website were on health care topics. Of those 35 health-related PDFs:

- 20 were created for consumers. The top consumer-focused downloads were:
 - Advance directive, short and long forms
 - Vermont dental clinics chart
 - Blue Cross Blue Shield of VT Annual Report 2014
 - Vermont Medicaid Coverage Exception Request – 10 Standards and Provider Request Form
- 8 were prepared for lawyers, advocates and assisters who help consumers with health care matters, including tax issues related to the Affordable Care Act. The top advocate-focused downloads were:
 - Low-Income Taxpayers and the Affordable Care Act, Nov 2014
 - Affordable Care Act - 2014 Tax Returns and Beyond
 - Premium Tax Credit - Marriage, Separation and Divorce
- 7 covered topics related to health policy. The top policy-focused downloads were:
 - Accountable Care Organizations - What is the Evidence? (and supporting documents)
 - Health Literacy and Plain Language

Our [Vermont Dental Clinics Chart](#) was the 6th most downloaded of all PDFs downloaded from the Vermont Law Help website.

B. Education

During this quarter, the HCA provided education materials and presentations and maintained a strong social media presence on Facebook, reaching out directly to consumers as well as to individuals and organizations who serve populations that may benefit from the information and education provided. Materials we developed have also been shared directly with health and tax advocates in Vermont and nationwide and posted to our website.

Flyers, Letter Templates, Other Printed Material

We wrote two articles for the July issue of Vermont Legal Aid's newsletter, *Justice Quarterly*. The first article explained two different forms of late-payment forgiveness available from the IRS for consumers affected by ACA implementation problems. It included links to two template letters that consumers can use to request abatement of late payment penalties. The second

article raised awareness that Vermont Health Connect's six-month delay in using the 2015 Federal Poverty Level guidelines to determine eligibility for Medicaid and Dr. Dynasaur had likely resulted in some people being incorrectly denied coverage.

In July, we published an article in the American Bar Association (ABA) Section of Taxation's *NewsQuarterly*, exploring the impact of the ACA on American Indian and Alaska Native consumers. The article was co-authored with Heather Erb, an attorney in private practice in Washington State.

Also in July, the *Journal of Tax Practice & Procedure* published a revised excerpt of the chapter on the Affordable Care Act that was co-authored by our tax attorney. The chapter was originally published by the ABA in the 6th edition of its manual, *Effectively Representing Your Client Before the IRS*.

Promoting Plain Language in Health Communications

In September, the HCA suggested major revisions to two important communications for consumers from the state:

- Reasons for Appeal Form – this form is being used by the Human Services Board in an effort to decrease the number of no-shows for scheduled Fair Hearings of Vermont Health Connect appeals. The HCA does not condone the use of this form, but we understand the volume of cases compared with the staffing levels at the HSB. We worked with the HSB to improve the form by rewriting difficult language and removing other requirements that would make the form an obstacle to the consumer's right to a Fair Hearing.
- Welcome to VHC Booklet – this booklet will be sent to new Vermont Health Connect customers. The HCA re-organized and edited the booklet to make it easier for the general public to understand.

Additionally in September, the HCA suggested a number of edits to add clarity and increase the readability level of Vermont Health Connect's one-pager explaining Full-Cost Individual Direct Enrollment.

Presentations

During this quarter, the HCA provided education directly to approximately 110 individuals, many of whom serve populations that will likely benefit from the information and education provided.

Low-Income Tax Clinic Network (July 7)

The HCA's tax attorney gave a presentation to 10 legal services attorneys on the IRS Taxpayer Advocate Service's (TAS) primary concerns related to the ACA, as presented in TAS's most recent Report to Congress. The attorney also presented and distributed the template IRS penalty waiver forms developed by the HCA in April and June 2015.

Trans Town Hall, Pride Center, Burlington (August 21)

The HCA presented on a panel with a peer support advocate and the Safe Space coordinator at the Pride Center about transitional medical services, the process for getting insurance coverage for transitional services, and resources that are available. There were 12 attendees, including trans individuals as well as Pride Center staff and community partners. We handed out 15 brochures.

American Bar Association Tax Section Webinar (September 9)

The HCA's tax attorney collaborated with the IRS Taxpayer Advocate Service, IRS Office of Chief Counsel, and IRS Wage & Investment's Office of Program Coordination & Integration to present ACA: Implementation Issues Affecting Individuals and Families. The presentation, sponsored by the Individual and Family Taxation Committee, was given to 42 tax attorneys and tax professionals via webinar. Topics included tax assessment and collection issues related to the Premium Tax Credit and the Individual Shared Responsibility penalty, controversy issues for practitioners, APTC renewals, IRS communications and partner resources, and the Taxpayer Advocate's leading concerns.

American Bar Association Tax Section Meeting (September 18)

The HCA's tax attorney was featured on a panel discussion of current issues related to tax filing status. The HCA's presentation focused on the intersection of ACA and tax filing status issues. The presentation, sponsored by the Individual and Family Taxation Committee, was given to 25 tax attorneys and tax professionals at the September meeting of the ABA Tax Section.

Vermont Bar Association Annual Meeting (September 25)

The HCA presented to 22 members of the Vermont Bar Association as part of a panel discussing Health Care Reform and Regulation in Vermont. The HCA presentation provided an overview of our statutory authority to work on behalf of consumers in the areas of health care advocacy, public policy, and rate review.