Dateline: March 9, 2012

PA Representatives Question DPW on Plans for Reducing Funding, Regulating Programs

On March 7 the PA House of Representatives Appropriations Committee held its hearing on the Governor Corbett’s proposed budget for the PA Department of Public Welfare (DPW) for FY 2012-2013. PA House members questioned DPW officials about numerous proposals for reductions in funding, including the Governor’s budget proposal to eliminate state funding designated for seven county human service programs, including community mental health and developmental program services, and to establish a block grant for human services that would reduce the current outlay to the counties by $168 million. State representatives also focused on the Governor’s proposal to end cash assistance grants for 60,000 individuals. DPW officials referred frequently to efforts to reduce fraud, waste and abuse in DPW-funded programs and services. See http://www.pahousegop.com/SBLN.aspx. For completed 2012 budget hearings see http://www.pahousegop.com/budgethrgsked.aspx. On the day following the House budget hearings on PA Department of Public Welfare budget for FY 2012-2013, PA House Health Committee held an informational meeting on proposed welfare regulations that were issued under Act 22 of 2011. Act 22 grants to the PA Secretary of Public Welfare the special authority to issue regulations without prior review by the Independent Regulatory Review Commission (IRRC). FMI: To view the hearings on regulations see http://www.pahousegop.com/WSA.aspx.

PARF Comments on DPW Regulations for ODP and Long Term Living Services

On March 9 PARF submitted comments to the Pennsylvania Department of Public Welfare on its regulations promulgated under Act 22 to amend the rules governing home and community-based services under the DPW Office of Developmental Programs (Title 55 DPW Chapter 51 ODP) and rules governing home and community based services under the Aging, Attendant Care, COMMERCARE, Independence and OBRA Home and Community-Based Service Waivers and Act 150 Program (Title 55 DPW Chapter 52 Long Term Living Home and Community-based Services). Concerning the ODP home and community based services, PARF said that under the draft regulations private provider agencies are treated as extensions of state government and are denied control over their own resources. PARF commentary noted the numerous ways the regulations shift the responsibility for managing the assets of these private organizations from their Boards of Trustees to state officials while leaving with these Boards all of the risk of maintaining the financial viability of these private organizations. PARF concluded that the policies contained in the regulations will have a major negative impact on the private organizations and increase the financial instability of the Commonwealth’s $2 billion system of community-based services for people with intellectual disabilities. PARF offered numerous comments on specific rules governing fiscal and program requirements. PARF commented on five areas of major concern and offered thirty five recommendations on specific provisions of the regulations. PARF said that both sets of regulations should have been subject to review by the Independent Regulatory Review Commission (IRRC). FMI: For comments, contact PARF at parfmail@parf.org.
PA Senate Passes Voter ID Legislation

On March 7 the Pennsylvania State Senate by a vote of 26-23 passed legislation (House Bill 934) requiring voters to present photo identification when they cast their ballots. The bill passed by the Senate will need to be passed again by the PA House of Representatives before it could be sent to Governor Tom Corbett for his signature. Governor Corbett has expressed support of a voter ID bill. HB 934 would require voters to show a valid, non-expired photo identification when they vote. Identification could include IDs issued by the state or federal government, such as a driver's license, a military identification card, or a passport. Photo identification cards from state-accredited colleges and universities and state-licensed care facilities will also be accepted as will county and municipal employee photo cards. No voter would be turned away on Election Day. Any voter who arrives without identification can vote using a provisional ballot. The voter would then have six days to show valid identification to their county election board. Any registered voter who does not have valid identification will be able to obtain a non-driver photo ID from PennDOT at no charge. The bill exempts those who have religious objections to having their photograph taken. In response to the Senate passage of the bill, the Senate Democratic Caucus claimed the bill was a violation of rights and announced that it will be filing an equal protection lawsuit. Others opposing the legislation include the AARP, NAACP, the County Commissioners Association of Pennsylvania, and civil liberties groups. FMI: For a copy of HB 934 see www.legis.state.pa.us

PA Senate Committee Approves Legislation to Consolidate Government Research Agencies

On March 7 the PA Senate Intergovernmental Operations Committee approved SB 1080 – legislation that that would consolidate four (4) legislative service agencies that provide research services into one (1) centralized bicameral, bipartisan research agency. The four (4) agencies include: the Joint Legislative Air and Water Pollution Control and Conservation Committee, the Joint State Government Commission, the Legislative Budget and Finance Committee, and the Center for Rural Pennsylvania. The new agency will be called the Pennsylvania Office for Research and Public Policy and will be comprised of four units representing the four consolidated agencies. FMI: See www.pasenategop.com and www.legis.state.pa.us

PA Senate Changes Rules on Service on Non-Profit Boards

On March 6 the Pennsylvania Senate unanimously approved a resolution amending rules of the PA Senate governing the service by senators on boards of non-profit organizations receiving state funds. Senate Resolution 65 prohibits senators and members of the Senate staff, along with their spouses and children, from serving on the board of directors for any non-profit organization that receives state funding unless a number of specific criteria are met. SR 65 prohibits service on a non-profit board unless the organization has a written set of bylaws, has a board with at least four members, requires official actions of the board to be approved in accordance with the bylaws, and receives at least some private funding. The new rule also prohibits any Senator or staff member from exercising unilateral control over the spending of any state funding that a non-profit receives; using the non-profit's resources, including personnel, to benefit a Senator's campaign; ordering a Senate employee to work for the non-profit; comingleing state funds with a non-profit organization's budget; and, maintaining a Senate office within or contiguous to the non-profit's office. FMI: See www.pasenategop.com or www.senatorpileggi.com.
PA Senate Committee Approves Commission to Set New Formula for Special Education

On March 6 the PA Senate Education Committee approved legislation (Senate Bill 1115) establishing a 12-member House-Senate commission to develop a distribution formula for new state special education funding. SB 1115 would direct the commission to establish a formula that separates special education students into three cost categories based on their need for services. More funds would be allocated for students requiring higher levels of service. It also would move away from the current formula’s built-in assumption that all districts have the same percentage of special education students. Instead, the new formula would average the actual number of special education students in each cost category over a three-year period to determine how much money a district would receive. The commission would have four months to complete its work. The measure will go to the Senate Appropriations Committee and then to the full Senate for consideration. A timetable for that Senate vote has not yet been determined. FMI: See www.legis.state.pa.us

DOH Sets FY 2011-2012 Surcharge for MCARE Patient Safety Trust Fund

In the March 10, 2012 edition of the Pennsylvania Bulletin the PA Department of Health (DOH) published its notice on FY 2011-2012 surcharge on its licensing fee that provides funds for the Patient Safety Trust Fund to carry out the Medical Care Availability and Reduction of Error (MCARE) Act. The surcharge is collected from and hospitals, ambulatory surgical facilities, birth centers, and abortion facilities. (Nursing homes receive a separate assessment notification.) DOH says that for ambulatory surgical facilities, birth centers and abortion facilities, it will impose the charge on the number of operating and procedure rooms while hospitals will be charged by the number of beds contained on the license of each hospital. The per-unit assessment will be approximately $118.03. Each facility will receive notification from DOPH setting forth the amount due, date due and the name and address to which the payment should be sent. Payment will be due within sixty (60) days. The MCARE Act authorized the Department to assess an administrative penalty of $1,000 per day on facilities who fail to pay the surcharge by the due date. If a medical facility has questions concerning the DOH notice, a representative from the facility should contact Joanne Salsgiver, Director, Department of Health, Division of Acute and Ambulatory Care, 625 Forster Street, Health and Welfare Building, Room 532, Harrisburg, PA 17120, (717) 783-8980. FMI: See www.pabulletin.com.

PA Department of State Announces 171 Disciplinary Actions in February 2012

On March 5 the PA Department of State announced that it took disciplinary actions against 171 licensed or commissioned professionals and organizations during February 2012. A comprehensive list of sanctions imposed by the Bureau of Professional and Occupational Affairs is available online at www.dos.state.pa.us; click on “Licensing” and then “Disciplinary Actions” from the left-hand side of the page. Each entry includes the name of the respondent, address, sanction imposed, a brief description of the basis for the disciplinary or corrective measure and the effective date. Anyone who suspects unlicensed activity by an individual or facility, or who has been a victim of unethical treatment, can file a complaint either online or through the bureau’s hotline at 1-800-822-2113. Violations of the law or state regulations may result in disciplinary actions of civil penalties and the suspension or revocation of a license. FMI: See www.dos.state.pa.us.
OLTL Modifies Rules on Community Integration Services

On March 6 the PA Office of Long Term Living (OLTL) issued a notice to its home and community-based service coordination providers identifying modifications to the Community Integration service definition in the COMMCARE, Independence and OBRA Waivers. OLTL said that currently to qualify for Community Integration an individual is required to have experienced a “life-changing event,” a change in condition that requires a new skill set, or a move to a new community or from a parent’s home (“precursor events”). Additionally, if the individual qualified, Community Integration services were limited to 8 hours per week for one learning goal or to 12 hours per week for two learning goals, for no longer than a total of 26 weeks. OLTL said that beginning April 1, 2012 and until September 30, 2012, OLTL will consider requests for Community Integration services beyond the limitations in that definition. The memo indicates that OLTL will retain discretion to authorize Community Integration for individuals who may have not experienced the precursor events, if OLTL determines that, despite the absence of those precursor events, a learning goal is absolutely necessary for the individual to live safely in the home or community-based setting. OLTL said that it also will retain discretion to authorize up to 21 hours per week of Community Integration and for periods longer than 26 weeks if OLTL determines that circumstances are such that a limited extension of the hourly/weekly limits will allow the individual to achieve the previously-established learning goals. OLTL added that it is prepared to assist service coordinators as they work with waiver participants to consider their need for Community Integration services. In response to the memorandum, the Disability Rights Network (DRN) of Pennsylvania urged any individual interested in reporting how they are affected by the modifications to the service definition or anyone seeking further information about the changes to contact the DRN at (215) 238-8070 ext. 221 or by email at kdarr@drnpa.org. FMI: See www.drnpa.org.

ODP Issues Information Packet for Certified Investigators

On March 6 the PA DPW Office of Developmental Programs (ODP) issued Communication Packet 020-12 providing information on Certified Investigations 020-12. The ODP packet says that Certified Investigators are to utilize the Certified Investigation Report template provided in the Pennsylvania Certified Investigators Manual to document the investigation process and to summarize and evaluate investigation findings. ODP requires that Certified Investigators use the narrative created in Section IV of the Certified Investigation Report to complete the Summary of Investigator’s finding text box found on the HCSIS Investigation Summary screen. ODP says that certified investigators must clearly document the investigation process and analysis of their findings. FMI: See www.odpconsulting.net

PA Peer Support Coalition Calls for Comment on Certification of Certified Peer Specialists

The Pennsylvania Peer Support Coalition (PPSC) is seeking comments and questions on the statewide Certification of Certified Peer Specialists and is requesting participation in a survey at http://www.papeersupportcoalition.org/advocacy/certification.html. To take the survey, click on https://docs.google.com/spreadsheet/viewform?formkey=dFRolUIlVIZCYmZVZibNYVctbWpKZGc6MQ. FMI: Call toll free at 1-800 887-6422 or see www.papeersupportcoaliton.com. FMI: Contact PPSC coordinator Rachelle Weiss at rachelle@pmhca.org
IRF PAI New Quality Indicators Section Train-the-Trainer Conference on May 2

To support the implementation of the Inpatient Rehabilitation Facility (IRF) Quality Reporting Program (QRP), for which data collection begins Monday October 1, 2012, CMS will host an “IRF Patient Assessment Instrument (PAI) New Quality Indicators” Train-the-Trainer Conference on Wednesday May 2 at the Sheraton Baltimore City Center Hotel, 410-742-1100. This conference is open to all Inpatient Rehabilitation Facility providers, associations, and organizations that support quality care in inpatient rehabilitation facilities. The goals of the conference are to: (a) Introduce the Quality Indicator item set that has been added to the IRF-PAI and (b) discuss assessment procedures and coding for the 2 quality measures: (1) Catheter Associated Urinary Tract Infections (CAUTI), and (2) Pressure Ulcers. This training is specific to the new Quality Indicators Section of the IRF-PAI and the reporting of CAUTI data to the CDC. The training will not cover the IRF-PAI in its entirety. Registration for the conference ends Friday March 16. Hotel reservations will not be accepted until registration has closed, at which time reservations may be made by phone or online; each participant will be limited to one room reservation. FMI: More information is available at the conference website at www.totalsolutions-inc.com/natconference, and questions can be submitted to conference2@totalsolutions-inc.com.

CMS Extends Comment Period for Off-The-Shelf Orthotic HCPCS Codes

The Centers for Medicare & Medicaid Services (CMS) has announced an extension of time for submitting comments on the list of HCPCS codes initially designated as off-the-shelf orthotics (OTS). Comments on the list of OTS HCPCS codes may be submitted until close of business on Friday, March 16, 2012, via email to OTSComments@cms.hhs.gov. CMS says that the extension is being granted in response to a request from stakeholders. FMI: For more information and to view OTS HCPCS codes, see http://www.CMS.gov/DMEPOSFeeSched/04_OTS_Orthotics.asp.

CMS Special National Call on Physician Value-Based Payment Modifier Program

On March 14 from 1:30 p.m. to 3:00 p.m. the Centers for Medicare and Medicaid (CMS) will host a special national provider call on the Physician Value-Based Payment Modifier Program. The National Provider Call is in support of the efforts of CMS to implement the Medicare Physician Feedback and Physician Value-Based Payment Modifier Programs. Section 3007 of the Affordable Care Act requires CMS to apply a Value Modifier, which compares the quality of care furnished to the cost of that care, to physician payment rates under the Medicare Physician Fee Schedule starting with specific physicians and physician groups in 2015 and expanding to all physicians by 2017. This National Provider Call will include presentations from a panel of three private sector experts who have had experiences in implementing physician-level pay-for-performance programs. Registration Information: In order to receive the call-in information, you must register for the call. Registration will close at 12:00 pm on the day of the call or when available space has been filled; no exceptions will be made, so please register early. FMI: For more details, including instructions on registering for the call, please visit http://www.eventsyc.com/blttechnologies. The presentation for this call will be posted at least one day beforehand at http://www.CMS.gov/PhysicianFeedbackProgram/PFP/list.asp.
DOL Seeks Comment on Proposed Rule on In-home Care Workers

On March 9 the U.S. Department of Labor (DOL) Wage and Hour Division announced a nine-day extension of the comment period for its proposed rule to provide minimum wage and overtime protections for nearly 2 million workers who provide in-home care services. The division published a notice of proposed rulemaking in the Federal Register on December 27, 2011, with a comment period originally set to end on February 27, 2012. The Wage and Hour Division then extended the comment period to March 12. DOL now is extending the comment period through March 21. The proposed rule would expand minimum wage and overtime protections by ensuring that all home care workers employed by third parties, such as staffing agencies, receive these protections. It also would clarify that individuals performing skilled in-home care work are entitled to minimum wage and overtime pay. However, individuals engaged by families for true companionship or fellowship activities, such as visiting with friends or pursuing hobbies, still would be considered "companions" and not be required to meet the act’s labor standards provisions. FMI: To learn more about the proposed rule, visit http://www.dol.gov/whd/flsa/companionNPRM.htm. Interested parties are invited to submit comments on or before March 21 at http://www.regulations.gov/#!documentDetail;D=WHD-2011-0003-0001.

RSA Issues Call for Proposals for OSERS National Transition Conference

The Rehabilitation Services Administration (RSA) has announced that the Call for Proposals for the Office of Special Education and Rehabilitative Services (OSERS) National Transition Conference (May 30-June 1, 2012) is now available on-line at www.transition2012.org. The Conference Planning Committee is seeking proposals for presentations and posters that align with the six conference theme tracks: Employment; family engagement; partnerships that support successful transitions; program and policy development and implementation; secondary and postsecondary education; and, youth development. All proposals must be related directly to the conference topic of transition for young people with disabilities with a focus on paths to careers including training and post secondary education. For additional information go to www.transition2012.org and see the attached document. All proposals must be submitted using the online submission process. Please note that the closing date for submission is March 27th. FMI: Questions about the Call for Proposals for the 2012 National Transition Conference should be addressed to Cindy Thomas at cindy.thomas@umb.edu or 617-287-4312 or Melanie Jordan at melanie.jordan@umb.edu at 617-287-4327.

US Education Department to Implement New Review System for Students with Disabilities

The United States Department of Education recently announced new steps to move away from a one-size-fits-all, compliance-focused approach to a more balanced system that looks at how well students are being educated in addition to continued efforts to protect their rights. The Department of Education says that throughout the coming year the Department will work closely with stakeholders to develop and implement a new review system that takes a more balanced, results-driven approach to assessing how states are educating students with disabilities and better targets monitoring to where it's needed most. FMI: For more information about the work of the Department’s Office of Special Education Programs, see http://www2.ed.gov/about/offices/list/osers/osep/index.html.
**PARF NEWS**  
**Dateline: March 9, 2012**

**GAO Publishes 2nd Annual Report on Opportunities for Making Government Efficient**

On February 28 the US Government Accountability Office (GAO) second annual report to Congress in response to the statutory requirement that GAO identify and report annually on federal programs, agencies, offices, and initiatives, either within departments or government-wide, which have duplicative goals or activities. The GAO 2012 Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue presents 51 areas where programs may be able to achieve greater efficiencies or become more effective in providing government services. Included are recommendations on Health Research Funding, Military and Veterans Health Care, Social Security Benefit Coordination, Housing Assistance, Employment for People with Disabilities, Medicare Advantage Payment, and Medicare and Medicaid Fraud Detection Systems. FMI: See [http://www.gao.gov/assets/590/588818.pdf](http://www.gao.gov/assets/590/588818.pdf).

**EEOC Updates Publications on Rights of Veterans with Disabilities**

On February 28 the Equal Employment Opportunity Commission released two revised publications addressing the rights of veterans with disabilities under the Americans with Disabilities Act. The revised guide for employers explains how legal protections for veterans with disabilities differ under the ADA and the Uniformed Services Employment and Reemployment Rights Act and how employers can prevent disability discrimination and provide reasonable accommodation. The guide includes information on organizations that can help employers with finding qualified veterans for jobs and with researching accommodations. FMI: Both publications are available on EEOC website. EEOC’s revised guide for employers may be accessed at [http://www.eeoc.gov/eeoc/publications/ada_veterans_employers.cfm](http://www.eeoc.gov/eeoc/publications/ada_veterans_employers.cfm). The EEOC revised guide for wounded veterans may be accessed at [http://www.eeoc.gov/eeoc/publications/ada_veterans.cfm](http://www.eeoc.gov/eeoc/publications/ada_veterans.cfm).

**IRS Promotes Use of Health Care Credit by Small Business and Tax-Exempt Organizations**

The U.S. Internal Revenue Service (IRS) is reminding small employers of a tax credit that could help them afford health insurance coverage for their employees. The Small Business Health Care Tax Credit is specifically targeted to help small businesses and tax-exempt organizations with 25 or fewer employees offer health insurance coverage. IRS says that the credit can enable small businesses and small tax-exempt organizations to offer health insurance coverage for the first time. It also helps those businesses and tax-exempt organizations already offering health insurance coverage to maintain the coverage they already have. Qualifying companies must have employees that earn an average wage of less than $50,000 a year and pay at least half of employee health insurance premiums. For tax years 2010 to 2013, the maximum credit for eligible small business employers is 35 percent of premiums paid, and for eligible tax-exempt employers the maximum credit is 25 percent of premiums paid. Beginning in 2014, the maximum credit will go up to 50 percent of qualifying premiums paid by eligible small business employers and 35 percent of premiums paid by eligible tax-exempt organizations. FMI: See [www.irs.gov](http://www.irs.gov)

See also [http://www.irs.gov/newsroom/article/0,,id=255248,00.html](http://www.irs.gov/newsroom/article/0,,id=255248,00.html).