PARF NEWS
Pennsylvania Association of Rehabilitation Facilities
2101 North Front Street, Building 3, Suite 200, Harrisburg, PA 17110
Phone: 717-745-9170 - Fax: 717-364-3287
PARF Email: parfmail@parf.org

Dateline: May 17, 2013

PARF/PCPA Legislative Day in Harrisburg on June 5, Online Registration Now Open

On June 5 PARF and PCPA are sponsoring a rally and meetings with legislators to assure adequate funding in next year’s state budget and avoid devastating cuts to community services. The PCPA/PARF registration table will be in the Pennsylvania Capitol Main Rotunda and will be open from 8:30 a.m. to 3:30 p.m. A legislative press conference/rally will begin promptly at 12:00 p.m. either in the Rotunda or on the Capitol steps. Members should begin to gather at 11:45 a.m. PCPA and PARF are pleased to report that legislators and advocates are confirmed to speak. PARF and PCPA are urging members to register today at http://www.mylps.com/PCPADOTH/tabid/879/Default.aspx. Registered attendees will receive a prepared member briefing packet; packets to be given to legislators will be set aside if visits are scheduled ahead of time and registered by May 27. Legislative visits should be scheduled throughout the day, except during the noon press conference/rally. PCPA and PARF are encouraging members to schedule in advance their appointments with legislators and/or staff. FMI: Contact PARF at parfmail@parf.org or Anne Leisure, PCPA Director of Legislative Affairs at anne@paproviders.org or 717-364-3280.

State Budget Bill to Be Introduced in PA House of Representatives on May 28

Facing a $518 million shortfall in the state budget Pennsylvania House leaders have announced that they plan to introduce a FY 2013-14 state budget bill on May 28, act on the bill in the House Appropriations Committee on June 3 and take action on the floor starting the week of June 10. A House vote would set the stage for more negotiations with the Senate and Governor Corbett ahead of a June 30 budget passage deadline. House Appropriations Chairman Bill Adolph announced the budget bill will not include $177 million in savings from changes to the state's public pension systems proposed by Governor Corbett in his February budget. To help close the budget gap, some lawmakers are considering a delay in the phase out of the capital stock and franchise tax that is scheduled to be completely eliminated in 2014. A freeze of the tax rate at 2012 levels would provide an estimated $390 million and help to prevent cuts and preserve spending increases proposed by the Governor in February. The PA legislature has delayed the phase out of the capital stock and franchise tax in five of the last 15 years. FMI: For updates on House action see www.pahousegop.com. For House budget documents see http://www.pahousegop.com/2013budget.aspx.

PA Senate Democrats Push for Medicaid Expansion

Leading an effort by Senate Democrats for Medicaid expansion in Pennsylvania, PA Senator Vincent Hughes (D-Philadelphia) has filed a discharge petition seeking to move a bill to expand Medicaid in Pennsylvania (Senate Bill 12) out of the Senate Public Health and Welfare Committee. The petition is designed to force a Senate floor vote on the bill. Governor Tom Corbett and his administration have been in discussions with the federal government with regard to the impacts that such expansion might have on Pennsylvania. Governor Corbett says that he will not consider expansion until he receives answers to questions and is assured that expansion will not increase costs to Pennsylvania now and in the future. A spokesman says Senate Republicans do not have a position yet on the petition or on Medicaid expansion. Senate Bill 12 does not provide details on expansion but only requires the Commonwealth to enter into an agreement with the federal government. For a report about the Senate Democrats’ discharge resolution effort, see http://www.newsworks.org/index.php/local/item/54810.
PA Senate Passes Legislation Supporting Development of Community Health Care Clinics

On May 14 the Pennsylvania Senate approved unanimously legislation (Senate Bill 5) to develop and expand community-based health care. SB 5 has been sent to Governor Corbett for his signature. The legislation sponsored by Senator Ted Erickson (R-26) creates the Community-Based Health Care Program in the PA Department of Health to provide grants to community-based health care clinics in Pennsylvania. PA Governor Tom Corbett included a $4 million appropriation for the program in his proposed FY2013-14 state budget. SB 5 provides funding for nurse-managed clinics, volunteer clinics and hospital-based clinics. FMI: See www.pasenategop.com and http://www.pasenategop.com/news/2013/0513/erickson-051413.htm.

PA Special Education Funding Commission Organized, Co-Chairs Selected

On May 15 the members of the Special Education Funding Commission established under Act 3 of 2013 (House Bill 2) named Representative Bernie O’Neill (R-Bucks) and Senator Pat Browne (R-Lehigh) co-chairs of the commission. The 15-member commission is charged with developing a new formula for distributing state funding to Pennsylvania school districts for special education. Also serving on the commission are: Mike Folmer (R-Lebanon), Senate Education Committee majority chairman; Andy Dinniman (D-Chester/Montgomery), Senate Education Committee minority chairman; Paul Clymer (R-Bucks), House Education Committee majority chairman; James Roebuck (D-Philadelphia), House Education Committee minority chairman; Sens. Edwin Erickson (R-Delaware/Chester), Jim Brewster (D-Allegheny/Westmoreland) and Judy Schwank (D-Berks); Reps. Mike Peifer (R-Monroe/Pike/Wayne), Mike Sturla (D-Lancaster) and Mark Longietti (D-Mercer); secretaries of Education and Budget; and deputy secretary for elementary and secondary education. The commission will hold public hearings in the coming months and is expected to present its recommendations to the General Assembly this fall. FMI: See http://www.pahousegop.com/NewsItem.aspx?NewsID=17443 and http://www.pahousegop.com/NewsItem.aspx?NewsID=17425.

PA Legislation to Lift Requirement for MA FFS Pre-authorization of Rx for Psychiatric Medicines

On May 13 the PA House Health Committee unanimously approved legislation (HB 1287) that provides licensed psychiatrists an exemption from Medicaid’s prior authorization for drugs they prescribe for Medicaid fee-for-service patients. A study by the American Psychiatric Association showed that more than 61 percent of psychiatrists in Pennsylvania reported having patients who experienced difficulty in accessing prescribed medications due to the prior authorization requirement. By contrast, the study found that psychiatrists in New York State, where mental health medications are not subject to prior authorization, only reported seeing patients who had difficulty in accessing medications at a rate of 27 percent. See http://www.pahousegop.com/NewsItem.aspx?NewsID=17404.

PA House Bill Introduced to Establish Permanently Governor’s Office for People with Disabilities

PA Representative Mark Cohen (D-202-Philadelphia) has introduced legislation in the PA House of Representatives to make permanent the Governor’s Cabinet and Advisory Committee for People with Disabilities which exist currently within the Department of Public Welfare through executive order signed by Governor Ed Rendell in 2006. House Bill 1183 awaits action by the House Human Services Committee. Companion legislation (S.B. 280) has been introduced in PA Senate by Senator Christine Tartaglione (D-Philadelphia). FMI: See http://www.pahouse.com/PAHouseNews.asp?doc=29495.
PA Senate Confirms Michael Wolf as Secretary of Health

On May 13 the Pennsylvania Senate confirmed Michael Wolf as secretary of the Department of Health. Wolf has served as acting secretary of the Department of Health since October 2012. Wolf also previously served in DOW as Executive Deputy Secretary. Wolf is a former public affairs and policy director with the pharmaceutical company Pfizer. FMI: For more information see http://www.portal.state.pa.us/portal/server.pt/community/department_of_health_information/1674/secretary_of_health/556772.

PA House Seeks Recommendations from JSGC to Amend MH Procedures Act

On May 13 the PA House of Representatives adopted unanimously (197-0) House Resolution 226, calling on the Joint State Government Commission (JSGC) to conduct a study of all aspects of Pennsylvania's mental health system and report back with specific recommendations for amendment and improvement of the Mental Health Procedures Act, particularly as to how criminal defendants with mental illness are addressed by established procedures, policies and programs. The March 15, 2013 memorandum to House members that called for support of the resolution noted that mental illness is a persistent challenge to society that increases when people with mental illness enter the criminal justice system. HR 226 says also that the 1976 Mental Health Procedures Act is in need of revision. The report is due by May 13, 2014. FMI: See www legis state pa us for HR 226.

DPW & DOS Plan for Requirement for Behavior Specialist License

On May 16 the Pennsylvania Departments of Public Welfare (DPW) and State (DOS) announced a plan allowing providers of services to children with autism to continue to be paid while they are working to meet new requirements that such providers hold a license as a behavior specialist. In making the joint announcement, the departments acknowledged a need to ease the transition for providers in conforming to Act 62 of 2008—a law that requires that staff serving children with autism spectrum disorders hold a Behavior Specialist license in order to continue billing the Medical Assistance program for services. To help service providers meet this requirement, the Pennsylvania Departments of Public Welfare (DPW) and State (DOS) have announced a plan to provide individuals additional time to work through the licensing process. Through an agreement with Behavioral Health Managed Care Organizations (BH-MCOs), DPW will continue Medical Assistance payments to professionals providing autism services to children while these providers finalize education, training and work to meet other requirements related to obtaining the license. Individuals who currently meet the qualifications need to submit an application for a license by May 26, 2013. Providers with staff still working toward meeting the qualifications must demonstrate to the BH-MCO that any other staff subject to the law can achieve the necessary training and educational requirements by January 1, 2014. DPW and DOS said that the BH-MCOs are working with providers to analyze where individuals are in the licensure process with the goal of helping them work toward meeting the requirements. Behavior specialist license applications are available at www.dos.state.pa.us. Select “Licensing”; “Health-Related Boards”; then “State Board of Medicine”. For a copy of the joint announcement, visit www.pa.gov and click on the section For the Media and select the May 16, 2013 press release entitled Departments of Public Welfare, State Ease Transition for New Behavior Specialist License Requirement
DPW Launches Mental Health Initiatives

On May 10 the PA Department of Public Welfare launched its “Mental Health Matters” initiative aimed at reducing stigma and prejudice that keeps people with mental illness from seeking and receiving help. The Mental Health Matters campaign at its start will be engaged in several efforts at increasing knowledge of mental illness and its initiatives, including: (a) expanding mental health first aid training (b) increasing awareness among families of the symptoms and management of mental illness, including crisis management; and (c) reducing suicides among veterans. For more information, visit www.pa.gov and click on the section For the Media and select the May 10, 2013 press release entitled New Initiative Launched to Reduce Mental Health Stigma and Prejudice.

Pennsylvania Insurance Department Fines Highmark

On May 17 the Pittsburgh Post-Gazette (PPG) reported that Highmark Inc. has been fined $50,000 by the Pennsylvania Insurance Department for minor insurance market violations. The state Insurance Department says Highmark violated 10 provisions of the Insurance Department Act and the Unfair Insurance Practices Act, and most of the violations dealt with claims denials and failure to remedy those issues expeditiously. PPG said that the review, according to the department, was triggered by a consumer complaint arising from a "problematic upgrade" to Highmark's OSCAR (Optimum System for Claims Adjudication and Reporting) processing system that caused thousands of claims to be denied. The processing and remedying of some of those denials wasn't completed in a timely manner, according to the state's sampling of those claims. Highmark disputed the findings, saying the processing of the claims in question either happened in a timely manner or was delayed for reasons out of the company's control, such as the implementation of new rules from the Centers for Medicare and Medicaid Services. The Insurance Department also cited Highmark for failure to provide certain members with explanation-of-benefits paperwork. The Highmark review, conducted in part by the Insurance Department's Market Actions Bureau, began in April 2011, reviewing claims and actions between April 16, 2010, and January 18, 2011. FMI: See http://www.post-gazette.com/stories/business/news/pennsylvania-insurance-department-fines-highmark-688007/#ixzz2Tn52ZMG9

OVR to Continue to Fund Project Search Programs

In a news release from the PA Department of Labor & Industry (L&I) dated April 10, 2013 – and posted on the Commonwealth of Pennsylvania website on May 10 (see www.state.pa.us), L&I announced that its Office of Vocational Rehabilitation (OVR) will be continuing to fund its Project Search program for young people with significant disabilities through the use of traditional vocational rehabilitation funding. The federal grant, which provided 100 percent of the funding needed during the pilot program, ends in September 30, 2013. The program has been piloted in Pennsylvania since October 2007 when the grant was first available. During that time, 239 students at ten (10) sites across the state have successfully completed the program. Of those, 100 have been successfully employed; 108 continue to participate. In collaboration with Cincinnati Children’s Hospital Medical Center PARF has offered presentations on the Project Search model at numerous PARF annual conferences. Since Project Search programs were developed in Pennsylvania, PARF has offered recognition of the programs through awards presented to numerous PARF-members who have sponsored Project Search sites in collaboration with OVR. FMI: For a copy of the announcement, visit www.pa.gov and click on the section For the Media and select the May 10, 2013 entry entitled Pennsylvania’s Office of Vocational Rehabilitation to Continue “Project SEARCH” Program without Federal Funding.
PA Awarded $1.5 Million Grant by CMS to Develop State Healthcare Innovation Model

On May 16 PA Governor Tom Corbett announced that Pennsylvania was awarded a $1.5 million grant from the Center for Medicare and Medicaid Innovation to design a state healthcare innovation plan. The planning process involves multiple state agencies and will include the establishment of committees consisting of stakeholders from the healthcare community, employers, consumers, and managed care organizations. Pennsylvania’s plan will focus on the development of new approaches to payment and care delivery. Governor Corbett said that its aim is to improve access to care, better manage chronic diseases, and reduce unnecessary readmissions to hospitals through better coordinating transitions of care. The planning process will identify best practices that already exist in the state and determine how to expand their use throughout the Commonwealth. States receiving awards under the initiative have until September 30 to submit their model plans to the Centers for Medicare and Medicaid Services. Once the plan has been approved, Pennsylvania will have an opportunity to submit for additional grants to test the models. FMI: See http://innovation.cms.gov/initiatives/stateinnovations/

PA Patient Safety Authority Changes Infection Reporting Criteria for Nursing Homes

In the May 18, 2013 edition of the Pennsylvania Bulletin, the PA Patient Safety Authority announced a change in reporting criteria for nursing homes under the Health Care-Associated Infection and Prevention Control Act. The Authority says that the changes to the surveillance criteria for health care-associated infections were developed in consultation with the Department of Health, the Authority's Board of Directors and the Authority's Healthcare-Associated Infection (HAI) Advisory Panel. The criteria for determining HAI were developed using the definitions for infection surveillance in long-term care by Stone et al. (McGeer criteria) together with modified Centers for Disease Control and Prevention definitions. The Authority says that the occurrence of an HAI in a nursing home is deemed to constitute a serious event and if an infection meets the criteria for reporting, that infection shall be reported as a serious event subject to the additional requirements described in the notice. The Authority is accepting public comment about the uniform reporting requirements established jointly by the Authority and the Department under Act 52. Comments may be submitted electronically to the Authority at patientsafetyauthority@state.pa.us.

DPW Publishes Regulations on Psychiatric Rehabilitation

In the May 11, 2013 edition of the Pennsylvania Bulletin, the PA Department of Public Welfare (DPW) published its Chapter 5230 regulations relating to psychiatric rehabilitation services, establishing minimum requirements for issuance of licenses for psychiatric rehabilitation service (PRS) facilities operated in Pennsylvania. Proposed rulemaking was published in the Pennsylvania Bulletin on October 23, 2010. PARF members have been engaged in development of the regulations since 2001, when DPW issued the PRS Medical Necessity Criteria and Standards—Revised (2001 Standards). DPW says that there are two (2) requirements in the final regulations that will add to costs: (a) the requirement to obtain Certified Psychiatric Rehabilitation Practitioner (CPRP) certification for an additional staff member and (b) the requirement that 25% of the full-time equivalent (FTE) staff complement be CPRP-certified. Under the final-form rulemaking a PRS agency must employ a PRS director and psychiatric rehabilitation specialist, both of whom need to be CPRP-certified. In addition, 25% of the FTE staff complement must be CPRP-certified. DPW notes that a PRS agency may need additional CPRP certifications to comply with this requirement. The cost to obtain CPRP certification is approximately $395 (registration and examination fee) per person. FMI: To view DPW commentary and regulations, see www.pabulletin.com.
PA OMHSAS Planning Council to Meet on June 6

The PA DPW Office of Mental Health and Substance Abuse Services (OMHSAS) Planning Council meeting is scheduled for Thursday, June 6, 2013. The meeting will be held at the DGS Annex Complex (former Harrisburg State Hospital Grounds). The meeting will feature all day individual sessions from 10:00 am to 3:00 pm. Locations for Individual meetings are: Children’s Committee at the Beechmont Building, Room 145 (Building 32); Adult Committee at Chapel (Building 15); and the Older Adult Committee at Clothes Tree (Building 36). To assist attendees if needed, a van will be available for transport from the parking lot to the meeting location. The van will begin pick-up at the intersection of Cherry Road and Sycamore Drive at 9:30 a.m. and will continue to make trips until 10:15 am; the van will also be available at the conclusion of the meeting.

OMAP List Serve Provides Updates on ICD-10 Implementation

Anticipating the October 1, 2014 deadline for compliance with ICD-10 implementation, the PA Department of Public Welfare Office of Medical Assistance (DPW- OMAP) ICD-10 team has created a Listserv group. DPW says that this Listserv group will receive monthly (and more frequently if necessary) emails that will provide updates, tips and suggestions on the ICD-10 project. DPOW OMAP says that this information will be very beneficial for those involved in the ICD-10 project. To sign up for this Listserv, see http://listserv.dpw.state.pa.us/ICD-10-IMPLEMENTATION.html and choose the link to join the List Serv. FMI: If you have any questions about the ICD-10 project, email: ra-pwomapicd10@pa.gov.

ODP Futures Planning Website and Methods for Submitting Comments Now Available

ODP Announcement 042-13 is intended to announce the new ODP’s Futures Planning website: Today’s Vision…Tomorrow’s Reality. Many features are available on the website, including a description of the ODP Futures planning process, meeting dates, resources, key documents and reference documents. ODP said that its futures planning website will also be used as one method to solicit feedback from stakeholders on specific topic areas related to ODP’s Futures Planning process. Additional new comment submission methods are also described in detail in this communication. FMI: The link to ODP’s Futures Planning website is: http://www.odpconsulting.net/odp-futures-planning/#.UV2AaVd4_7A

ODP Adds Life-Sharing Directory and Other Resources to Website

On May 9 ODP issued ODP Memorandum 038-13 announcing the first publication of the Life-Sharing Update – a newsletter meant to communicate to all stakeholders initiatives, best practices and other ODP and community news around Life-Sharing as well as the availability of a Life-Sharing Directory to enable easy, accessible information when looking for an appropriate match for this service. Additionally, information regarding transition services available to individuals funded through the Office of Children, Youth and Families is now posted. Specifically, ODP has produced a Life-Sharing Update (Spring 2013), 2011 Youth Independent Living Service Guidelines; and Life-Sharing Provider Directory in two formats, Excel and PDF. FMI: See www.odpconsulting.net.
Marilyn Tavenner Wins Senate Confirmation as CMS Chief Administrator

On May 8 the U.S. Senate approved President Obama's nominee to run Medicare and Medicaid, Marilyn B. Tavenner. She is the first confirmed chief in six and a half years. The 91-to-7 vote showed broad support for Ms. Tavenner, a former state health official in Virginia, who was endorsed by Representative Eric Cantor of Virginia, the House Republican leader. Her position has long been considered too politically volatile to fill. Lawmakers from both sides of the aisle have said it is important to have a confirmed Medicare chief to implement the health law, which will allow currently uninsured Americans to sign up for health insurance starting in October. Coverage will not be effective until January. Tavenner has worked for the past 3 years as CMS' principal deputy administrator before becoming acting administrator following the departure of former CMS administrator Donald Berwick. FMI: See http://topics.bloomberg.com/marilyn-tavenner/. See http://www.cms.gov/About-CMS/leadership/.

HHS Announces $1 Billion Health Care Innovation Awards Program

On May 15 US Department of Health and Human Services (HHS) announced a second round of Health Care Innovation Awards. Last year, the Centers for Medicare and Medicaid Services (CMS) distributed 107 Health Care Innovation Awards in the first round to organizations testing innovative health care solutions. This second round of awards aims specifically to support innovations in four designated areas: 1) rapid reduction of costs for Medicare and Medicaid patients in outpatient hospital and other settings; 2) improving care for special needs populations; 3) testing improved financial and clinical models for certain provider types; and 4) tying clinical care delivery to preventative and population health. Applications will be made available starting June 14 and will be accepted until August 15. All applications are required to submit non-binding letters of intent to apply by June 28, 2013 at 3pm EDT. More information about the program and grant application process is available at http://innovation.cms.gov/initiatives/Health-Care-Innovation-Awards/Round-2.html. See NASBO at www.nasbo.org.

CMS Offers Strategies for Facilitating Medicaid & CHIP Enrollment/ Renewal in 2014

On May 17 the Centers for Medicare & Medicaid Services released a letter to state health officials titled “Facilitating Medicaid and CHIP Enrollment and Renewal in 2014.” The letter offers optional strategies that can help in reducing the number of uninsured individuals and optional tools to help states manage the transition to their new eligibility and enrollment systems and coverage of new Medicaid enrollees. For more information, please see the letter that is available online at http://www.medicaid.gov/Federal-Policy-Guidance/Federal-Policy-Guidance.html.

HHS OIG May Approve Federal Funding for Data Mining by State Medicaid Fraud Units

Medicaid Fraud Control Units (MFCUs), as provided in a regulation published in the May 17, 2013 Federal Register, may seek permission from the HHS Office of Inspector General (OIG) to receive Federal matching for conducting data mining. HHS OIG said that the regulation reverses a long-standing prohibition for MFCUs to engage in data mining and receive Federal matching. A data mining request must describe how data mining will be coordinated with the State Medicaid agency and OIG approval of any request will be coordinated with the Centers for Medicare and Medicaid Services (CMS), which oversees the Medicaid program at the Federal level. The regulation may be found at https://oig.hhs.gov/fraud/medicaid-fraud-control-units-mfcu/index.asp. FMI: See also http://go.usa.gov/TSWR.
CMS Issues Rule on DSH Payments

On May 13 Centers for Medicare & Medicaid Services (CMS) issued a Center for Medicaid and CHIP Services (CMCS) Informational Bulletin on Medicaid Disproportionate Share Hospital Allotment Payment Reductions noting that CMS put on display at the Federal Register a Notice of Proposed Rulemaking titled “Medicaid Disproportionate Share Hospital Allotment Payment Reductions” (CMS-2367-P). The rule is available at: https://www.federalregister.gov/public-inspection and was published in the Federal Register on May 15, 2013. Public comments are due July 12, 2013. CMS explained that that the Affordable Care Act (ACA) requires aggregate reductions to state Medicaid disproportionate share hospital (DSH) allotments annually from fiscal year (FY) 2014 through FY 2020, at the same time as the Marketplace and Medicaid provide increased coverage options that will likely reduce uncompensated care levels for hospitals. The proposed rule includes a reduction methodology for FY 2014 and FY 2015 only. A CMS fact sheet describing the rule is available at http://www.cms.gov/apps/media/fact_sheets.asp. Please refer to the Federal Register for information about how to submit comments.

CMS Seeks Public Comment on Defining QIO Service Areas

The Centers for Medicare & Medicaid Services (CMS) issued a request for information (RFI) notice, HHS-CMS-CCSQ-RFI-13-QIO Program: Request for Information to Establish Services Areas for Quality Improvement Organizations (QIOs) to seek comment about how to best organize Medicare QIO contractors. The RFI details four potential options CMS may use to divide work among QIO contractors into service areas (jurisdictions or regions) that are focused on quality-improvement-related work only. CMS is also seeking new ideas about other options to consider in organizing QIO contractors. Comments are requested by May 31, 2013 at 4:00 p.m.ET. FMI: See http://www.cms.gov/Outreach-and-Education/Outreach/OpenDoorForums/Downloads/050213PublicCommentQIOServiceAreas.pdf

2014 ICD-10-PCS Files Now Available

ACCSES Annual Conference in Washington DC on July 28-31

The American Congress on Community Supports and Employment Services (ACCSES) will host its 2013 Annual Conference on July 28-31, 2013 in Washington, DC at the Fairfax Hotel at Embassy Row. Information on registration, sponsorship, hotel booking and the Conference agenda are on the Access website at http://accses.org/annual-conference. Representatives from disability service providers and their supporters from across the country will be gathering in Washington, DC, to learn and discuss the most pressing public policy issues facing the advancement and empowerment of the people with disabilities they serve every day. The ACCSES Annual Conference offers policy briefings, breakout sessions, advocacy reports and activities on the Hill, and question-and-answer sessions with policy makers. This year's Annual Conference is the first ACCSES Conference to feature a day of training on Section 14(c) of the Fair Labor Standards Act (FLSA) provided by officials from U.S. Department of Labor's Wage and Hour Division. FMI: See http://accses.org/join-us

DOL Issues Guidance to States on Flexibility in Implementing Sequester

In a memo dated May 10, 2013, the Employment and Training Administration (ETA) provided additional guidance to state workforce agencies, as well as state and local workforce boards and state labor commissions, regarding flexibility available for workforce programs that may help manage sequestration and rescission-related formula funding reductions for program year (PY) 2013. In previous guidance (see http://wdr.doleta.gov/directives/attach/TEGL/TEGL_25_12.pdf), the agency had announced updated state allotments for PY 2013 for the Workforce Investment Act (WIA) Title I and Wagner-Peyser (W-P) Act programs. This latest memo clarifies existing flexibility and additional flexibility states may acquire through a waiver. Areas where funding flexibility may be available, as explained in the guidance, include the governor’s set-aside for statewide activities, rapid response activities, allocation and reallocation from state to local workforce agencies, transfers between adult and dislocated worker funding streams, W-P fund usage, and timing of state oversight activities. FMI: To review the May 10 memo, see http://wdr.doleta.gov/directives/attach/TEGL/TEGL_27_12.pdf.

OSHA Seeks Applications for Safety and Health Training Grants

The U.S. Department of Labor's Occupational Safety and Health Administration is soliciting applications under the Susan Harwood Training Grant Program, through which a total of $1.5 million is available to nonprofit, community and faith-based organizations; employer associations; labor unions; joint labor/management associations; and colleges and universities. The grants will fund training and education for workers and employers in recognizing workplace safety and health hazards and prevention measures, and understanding their rights and responsibilities. Two types of safety and health training grants will be awarded: (a) targeted topic training grants and (b) training and educational materials development grants. The solicitation for grant applications is available at http://www.grants.gov. OSHA has developed a webinar to assist prospective applicants in understanding the application process. The webinar will be available 24 hours per day, seven days per week, on OSHA's website at http://www.osha.gov/dte/sharwood/2013_solicitation.html during the solicitation period. More information on the Susan Harwood Training Grant Program is available on OSHA's website at http://www.osha.gov/dte/sharwood/index.html. Questions from the public should be directed to Heather Wanderski or Jim Barnes at harwoodgrants@dol.gov or 847-759-7700 (telephone).
U.S. Appeals Court Says Employers Not Obligated to Post Notice of Worker Rights

On May 7 U.S. Court of Appeals for the District of Columbia Circuit held in National Association of Manufacturers, et al. v. National Labor Relations Board, et al., No. 12-5068 that the National Labor Relations Board’s (NLRB) August 2011 rule requiring most private-sector employers to post notices of worker rights violated the free-speech rights of employers under federal labor law—and is therefore invalid. The court concluded that the NLRB’s notice posting rule violates Section 8(c) because the rule makes an employer's failure to post the notice an unfair labor practice and because it treats such a failure as evidence of anti-union animus. The court also rejected the Board's alternate method of enforcing the notice posting rule—namely, the tolling provision. Because the court determined that all of the means for enforcing the Board's notice posting requirement were invalid, it refrained from deciding whether the Board lacked the regulatory authority to require employers to post the notice in the first place. The court determined, however, that since the NLRB's requirement for the notice posting was not severable from its invalid enforcement provisions, it "must therefore fall along with the rest of the Board’s posting rule." As a result of the ruling, there is no obligation on the part of employers to post the notice. FMI: See http://www.cadc.uscourts.gov/internet/opinions.nsf/E16F1375FA672CCE85257B64004E8BB2/$file/12-5068-1434608.pdf

U.S. Employment Rate of People with Disabilities Improves

On May 3 the Bureau of Labor Statistics (BLS) indicated that the employment-to-population ratio for working-age people with disabilities in the United States increased from 26.9 percent in April 2012 to 27.3 percent in April 2013 (up 1.5%). The change indicates that a greater proportion of people with disabilities are working. The data continues the trend seen in the previous month's data. In addition, the percent actively looking for work increased slightly for people with disabilities, from 4.3 percent in April 2012 to 4.5 percent in April 2013 (up 5.5%). The labor force participation rate was also positive for people with disabilities. The rate increased from 31.2 percent in April 2012 to 31.8 percent in April 2013. The labor participation rate is the percentage of people who are working or actively looking for work. FMI: For current data see http://www.bls.gov/news.release/pdf/empsit.t06.htm. For the page on workers with disabilities see http://www.bls.gov/cps/cpsdisability.htm. See also www.bls.gov.

DOL Reports on Barriers to Employment for People with Disabilities

On April 24 the US Department of Labor (DOL) Bureau of Labor Statistics (BLS) issued a news release (USDL-13-0729) that reported on barriers to employment for people with disabilities. The DOL BLS news release indicated that half of those with a disability who were not employed in May 2012 (that is, persons who were either unemployed or not in the labor force) reported at least one barrier to employment. When asked to identify barriers they had encountered, most reported that their own disability was a barrier to employment (80.5 percent). Other barriers cited included lack of education or training (14.1 percent), lack of transportation (11.7 percent), and the need for special features at the job (10.3 percent). BLS said that a greater proportion of persons ages 16 to 64 reported a barrier to employment than those age 65 and over (70.8 percent and 29.8 percent, respectively), perhaps reflecting the fact that older workers are, in general, less likely to participate in the labor force. Among persons with a disability age 25 and over, 38.6 percent of persons with a college degree who were not employed reported a barrier to employment – compared with 52.9 percent of those with less than a high school diploma. FMI: To access the news release click on http://bls.gov/news.release/pdf/dissup.pdf. To obtain technical information contact (202) 691-6378. See also cpsinfo@bls.gov and www.bls.gov/cps.
EEOC Issues Revised Publications on Employment Rights of People with Specific Disabilities

On May 15 U.S. Equal Employment Opportunity Commission (EEOC) issued four revised documents on protection against disability discrimination. The goal of the agency's Strategic Plan is to provide up-to-date guidance on the requirements of antidiscrimination laws. The documents address how the Americans with Disabilities Act (ADA) applies to applicants and employees with cancer, diabetes, epilepsy, and intellectual disabilities. The documents are available on the agency's website at “Disability Discrimination, The Question and Answer Series” at http://www.eeoc.gov/laws/types/disability.cfm. EEOC says that the revised documents reflect the changes to the definition of disability made by the ADA Amendments Act (ADAAA) that make it easier to conclude that individuals with a wide range of impairments, including cancer, diabetes, epilepsy, and intellectual disabilities, are protected by the ADA. Each of the documents answers questions about topics such as: When an employer may obtain medical information from applicants and employees; what types of reasonable accommodations individuals with these particular disabilities might need; how an employer should handle safety concerns; and what an employer should do to prevent and correct disability-based harassment. FMI: See www.eeoc.gov.

LEAD Webinar on Customized Employment and Customized Self-Employment

The LEAD Center will be presenting a webinar on Promoting Employment — Introduction to Customized Employment and Customized Self-Employment on May 29 from 3:00p.m. to 4:30 p.m. EST. The LEAD Center webinar will provide information on Customized Employment, including Customized Self-Employment, as a best practice. Participants will understand how Customized Employment can support job placement efforts for job seekers both with and without disabilities. The presentation is targeted to workforce development professionals and stakeholders. To register for the seminar, see http://www.realeconomicimpact.org/Events.aspx?id=242. FMI: For information on the National Disability Institute (NDI) and the LEAD Center see http://www.realeconomicimpact.org/.

SAMHSA: Community-Based Programs Improve Lives of Young Adults with MH Challenges

In support of National Children’s Mental Health Awareness Day – May 9, 2013 the federal Substance Abuse Mental Health Services Administration (SAMHSA) issued a report Promoting Recovery and Independence for Older Adolescents and Young Adults Who Experience Serious Mental Health Challenges. The report describes how SAMHSA programs and services impact older adolescents and young adults with mental health challenges. The report indicates that young adults (age 18–25) taking part in community-based treatment programs achieve positive outcomes in their behavioral and emotional health, daily life skills, employment, enrollment in school, and reduced homelessness. Those who received help from SAMHSA funded programs had (a) reduced behavioral and emotional problems; (b) increased rates of employment and enrollment in school; (c) reduced rates of homelessness and improved housing stability; (d) improved daily life skills; and (e) fewer substance use issues. To view the report HHS Publication SMA-13-4756, see http://www.samhsa.gov/children/SAMHSA_Short_Report_2013.pdf.