

DECEMBER 2016

A MESSAGE FROM THE CEO

PROVIDERS ASSOCIATION

As the Year Ends...and the Proposed Block Grant



Richard S. Edley, PhD

In mid-November, RCPA went to Washington, DC to meet with Pennsylvania legislators. Each time we have such visits we rotate issues among

the divisions and as to what is pressing at the moment. There were several topics that were on the agenda for this round, including:

- The Institutions for Mental Diseases (IMD) exclusion and the impact on people receiving care in mental health and, especially, drug and alcohol treatment facilities.
- The Department of Labor (DOL)
 overtime rule and the opportunity
 to still possibly delay, amend, or
 stop this measure or better yet,
 appropriately fund the proposed
 change (Note: subsequent to the
 DC visit a federal judge overturned
 the rule. At the time of this article
 the full impact of this action was yet
 to be determined).
- The proposed peeling back of health care reform (aka

"Obamacare") and its impact on Medicaid Expansion.

There was also that event known as the presidential election, and we wanted to get an early gauge as to how Trump-mania was actually impacting legislators.

First, a digression. As a reminder, RCPA is not a democrat or republican "leaning" association. We represent providers of health and human services and fight for proper legislation, regulations, and funding so that we can best serve consumers and their families. Quite frankly historically, and certainly in my tenure in this position, both parties have been very helpful at times in supporting our issues and both parties have presented obstacles at times as well. That is precisely why we work at educating both sides of the aisle.

Which brings us to the election. Admittedly, President-elect Trump was not exactly heralded in on a banner of supporting disabilities. But it is early, and there is time for policy to be developed and impacted. And as many of the Pennsylvania legislators reminded us on this visit, the President may make pronouncements,

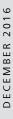
but it is the legislature that enacts regulation and law.

So what should we be concerned about? Well...there is actually one proposal on the horizon; the possibility of moving Medicaid to block grant funding. While everyone in DC loves to talk about the election, at the end of the day that discussion is more

"...we wanted to get an early gauge as to how Trump-mania was actually impacting legislators."

about polls, pundits, and sensationalism. It may be amusing to talk about Clinton and Trump, but the election is over. What really matters now is developing policy; and what really concerned people who were analyzing the election impact was the possibility of a block grant. So what is the Medicaid block grant proposal and why is it a concern?

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A MESSAGE FROM THE CEO

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The plan centers on a proposal from House Budget Committee Chairman Paul Ryan. This would convert Medicaid into a block grant and the federal government would no longer pick up a fixed percentage of states' Medicaid costs. Rather, each state would be given a fixed dollar amount and states would be responsible for all remaining Medicaid costs.

The first concern is that the methodology would be a "look back" on expenditures (with as much as a three-year lag) and then adjusted by an inflation factor. Most experts agree that this type of funding could not possibly keep pace over time with health care costs, which rise faster than overall inflation. In addition, PA HealthChoices has a long history of increasing access and services – and this has grown with the number of Medicaid beneficiaries over time and with Medicaid expansion. That is the second concern.

Therefore, without a major overhaul, a block grant methodology as proposed simply cannot adequately cover PA HealthChoices. PA HealthChoices has, in fact, saved significant dollars (millions) for Pennsylvania and the federal government when analyzing expenditures against the trend in health care; not inflation. In pure dollars the funds would not be available for services provided under such a program.

According to the Center on Budget Priorities and Policies, a nonpartisan

research and policy institute, Chairman Ryan's proposal to convert Medicaid to a block grant would have cut federal Medicaid funds such that every state would have received substantially less from the federal government over the last decade than it actually received under current law. Cuts would have been 35 percent or more in Pennsylvania.

To specifically quote CBPP: "To compensate for federal funding reductions of this magnitude, states would have to provide substantially more state funding (by raising taxes or cutting other programs) or, as is much more likely, cut back their programs substantially by scaling back eligibility (and covering many fewer low-income families and individuals), cutting back the health and long-term care services and supports that Medicaid covers, and further lowering reimbursement rates to providers."

So, with the election and change comes opportunity but also concern. We now need to get past emotion, rhetoric, and the "fun" banter about the election. It is time to talk about policy changes which can really impact providers and the individuals we all serve. That is where our efforts and action in the coming year lie. And we will be going back to Washington, DC in the coming year to make sure our voice continues to be heard.

Richard S. Edley, PhD, President/CEO

This column represents my opinion, not necessarily that of the association.

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For additional information on legislative issues, contact RCPA at 717-364-3280. For copies of bills, call your local legislator, the House Document Room 717-787-5320, or visit the General Assembly's Electronic Bill Room at www.legis.state.pa.us.



Election Update

President

On Tuesday, November 8, Donald Trump defeated Hillary Clinton in the electoral college (290–232; Michigan's electoral votes have yet to be awarded) to become the 45th President of the United States. President-elect Trump has started on identifying and naming high level officials to work in his administration. Preliminary reports have emerged from the transition team about how President-elect Trump will handle health care issues. In general, the new administration will:

- Seek a full repeal of the Affordable Care Act;
- Implement free market principles to restore economic predictability to health care costs;
- Modify existing law to allow the sale of health insurance across state lines:
- Allow health insurance premiums to be fully deducted on tax returns;
- Enable expansion of Health Saving Accounts;
- Require price transparency from all health care providers;
- Provide block-grants to states for Medicaid; and
- Remove barriers to allow safe, reliable, and cheaper

pharmaceuticals to enter the market, such as importation.

Additionally, the Department of Labor's Overtime Rule has the possibility of being overridden by a Republican-controlled Congress and a business-friendly president in the White House.

Congress

In the Senate, incumbent Senator Pat Toomey narrowly defeated his challenger Katie McGinty by a margin of 48.9% – 47.2%. Senator Toomey's seat was targeted by national Democrats, because they viewed it as a seat that was in play to flip the Senate from the current Republican majority to a Democrat majority in the new Congress. With Pennsylvanians voting for Sen. Toomey and the Democrats only picking up a net of two seats, the Democrats fell short of capturing the Senate majority. When the new Congress convenes in January, Republicans will hold a 52–48* majority (*Sen. Bernie Sanders, who is an Independent, caucuses with the Democrats).

The House of Representatives stayed in Republican hands. In Pennsylvania, the Republicans maintained a 13–5 edge over Democrats. A few new members were added to the PA Congressional Delegation: State Senator Lloyd Smucker (R – Lancaster County) emerged as the winner over Christina Hartman (D – Lancaster) in the 16th Congressional District and State Representative Dwight Evans (D – Philadelphia), who was running in an

open seat due to former Congressman Chaka Fattah's legal troubles, beat his challenger in the 2nd Congressional District. Overall, Republicans nationally lost a total of six seats to Democrats but they maintain the House majority by a 238–193 margin.

State

The big news in the State Senate races was that the Republicans were able to pick up three seats to obtain a veto proof majority. The Republicans picked up seats in the Erie, Johnstown/Bedford, and Harrisburg areas.

In the House, the Republicans increased their majority, and now hold a comfortable 122–81 majority. The House majority is the largest held by either party since 1957–58.

Senate Leadership Elections

On Wednesday, November 16, the Senate Republican and Democrat caucuses held leadership elections. The Senate Republican leadership team includes:

President Pro Tempore: Senator Joe Scarnati (R–25, Jefferson) has been nominated once again to serve. The full Senate will vote on Scarnati's nomination when it reconvenes in January. As president pro tempore, he will be responsible for appointing the chairpersons and members of the standing committees of the Senate. He will also play a significant role in negotiations with the Administration and the House of Representatives.

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Majority Leader: Senator Jake Corman (R-34, Centre County) will serve his second term as majority leader. His duties include overseeing the legislative agenda, developing policies and strategies for the Senate Republican caucus, and playing a key role in floor debates. He will also have a major role in negotiating issues with the Administration and House of Representatives and in coordinating action on the Senate floor.

Appropriations Chairman: Pat Browne (R-16, Lehigh County). The Appropriations Committee is one of the most influential of the standing committees. The committee reviews all legislation for its fiscal impact and plays a crucial role in developing the state budget.

Majority Whip: Senator John Gordner (R-27, Columbia County). Senator Gordner's duties include acting as assistant floor leader, working to gain support for legislation, and assuring that Republican policies and strategies are maintained through the cooperative efforts of the majority caucus.

Majority Caucus Chairman: Senator Bob Mensch (R-24, Berks) will continue to serve for the 2017–2018 legislative session. As chairman he presides over Republican caucus meetings to discuss bills and amendments and to develop caucus strategy.

Majority Caucus Secretary: Senator Richard Alloway (R-33, Adams) oversees all executive nominations submitted to the Senate for confirmation. He will coordinate the review of the background and experience of nominees and ensure that proper documentation is submitted.

Majority Caucus Administrator: Senator Chuck McIlhinney (R-10, Bucks) will remain.

Policy Committee Chair: Senator David Argall (R-29, Berks).

The House Democratic Leadership for the 2017–18 term includes:

Majority Leader: Jay Costa (D-Allegheny)

Whip: Anthony Williams (D-Philadelphia)

Appropriations Chair: Vincent Hughes (D-Philadelphia)

Caucus Chair: Wayne Fontana (D-Allegheny)

Caucus Secretary: Larry Farnese (D-Philadelphia)

Policy Committee Chair: Lisa Boscola (D-Northampton)

House Leadership Elections

On Tuesday, November 15, the House Republican and Democrat caucuses held leadership elections. The House Republican leadership team includes:

Speaker of the House Designee: Rep. Mike Turzai (28th District, Allegheny County) is ending his first term as speaker. He was elected majority leader for two sessions, serving in that capacity from 2011–14. Turzai was first elected to the House in 2001 and previously served as whip during the 2009-10 legislative session and Republican Policy Committee chairman during the 2007-08 session.

Majority Leader: Rep. Dave Reed (62nd District, Indiana County) was first elected to the House in 2002. He is currently serving his first term as majority leader and was the Republican Policy Committee chairman from 2011-2014. Reed has also served as chairman of the House Republican Campaign Committee from 2009-14. Whip: Rep. Bryan Cutler (100th District, Lancaster County) was elected to the House in 2006. Unopposed, Cutler was re-elected to his second term as majority whip.

Appropriations Chairman: Rep. Stan Saylor (94th District, York County) was first elected to the House in 1992. In the 2011–12 session, Saylor served as majority whip, and in the 2009-10 session, he was the Republican Policy Committee chairman. Currently, Saylor is chairman of the House Education Committee.

Caucus Chairwoman: Rep. Marcy Toepel (147th District, Montgomery County) was first elected to the House in 2010. Prior to being elected, Toepel served in various positions in the Montgomery County government. This is her first term as a member of the caucus leadership team.

Policy Committee Chairman: Rep. Kerry Benninghoff (171st District, Centre and Mifflin Counties) was elected to the House in 1996. Unopposed today, he was elected to his second term as Republican Policy Committee chairman. Previously, Benninghoff served as the chairman of the House Finance Committee, chairman of the Cancer Caucus, and chairman of the Rural Health Caucus.

Caucus Administrator: Rep. Kurt Masser (107th District, Columbia, Montour, and Northumberland Counties) was first elected in 2010. This is his first term as a member of the caucus leadership team.

Caucus Secretary: Rep. Donna Oberlander (63rd District, Armstrong, Clarion, and Forest Counties) was elected to the House of Representatives in 2008. This is Oberlander's second term as caucus secretary; she was unopposed. Previously, she chaired the House Oil and Gas Caucus and the House Diabetes Caucus.

The House Democratic Leadership for the 2017-18 term includes:

Democratic Leader Frank Dermody, 33rd Legislative District (Allegheny and Westmoreland Counties). Representative since 1991.

Democratic Whip Mike Hanna, 76th Legislative District (Clinton and Centre Counties). Representative since 1991.

Caucus Chairman Dan Frankel, 23rd Legislative District (Allegheny County). Representative since 1999.

Caucus Secretary Rosita Youngblood, 198th Legislative District (Philadelphia). Representative since 1994.

Caucus Administrator Neal Goodman, 123rd Legislative District (Schuylkill County). Representative since 2003.

Policy Committee Chairman Mike Sturla, 96th Legislative District (Lancaster County). Representative since 1991.

Appropriations Committee Chairman Joe Markosek, 25th Legislative District (Allegheny County). Representative since 1983.

RCPA Capitol Day





and regulations that affect the day-to-day activities of our members. More

information will follow; for questions or suggestions regarding Capitol Day,

please contact Jack Phillips, RCPA Director of Government Affairs.

RCPA's Fourth Annual Golf Outing

RCPA is moving its annual golf outing from the fall to the spring, so please mark your calendars for Thursday, May 11, 2017, at the beautiful Hershey Country Club. Lunch will start at 11:00 am in the Picard Grand Pavilion. There will be a putting contest at 12:15 pm, followed by a 12:30 pm shotgun start.

RPCA PAC raises money and supports campaigns of state legislators who work tirelessly on issues that benefit mental health, intellectual/developmental disabilities, substance use disorder, brain injuries, medical and vocational rehabilitation, and other related human services. The funds raised through RCPA PAC can make the difference between a win and a loss on an issue or assist in making a new ally. Even if you can't be a strong contributor to RPCA PAC fundraising efforts, we all have friends and business associates who are interested in helping our allies to victory.

Getting involved in RCPA PAC not only allows you to help make decisions on who the committee supports, but also helps to identify new folks who will join in our successes. Further questions may be directed to Jack Phillips, RCPA Director of Government Affairs.

NEW MEMBERS

FULL PROVIDER

Accurate Care Services 201 DeKalb St Norristown, PA 19401 Joan L. Ortiz-Cruz, CEO

My Independence at Home, LLC

1 Winding Dr, Ste 101 The Monroe Bldg Philadelphia, PA 19131 Lisa M Robinson, CEO

Spina Bifida Association of Western PA

1158 Dutilh Rd Mars, PA 16046 Adele Duffy, Executive Director

BUSINESS

S. R. Wojdak & Associates, LP 200 S Broad St, Ste 850 Philadelphia, PA 19102 Andrew Wigglesworth, Executive Vice President

MEMBERS IN THE NEWS

RCPA Member Strawberry Fields, Inc.: "The Science of The State's Success"

RCPA Member Pennsylvania Counseling Services, Inc. to Start State Addiction Program

RCPA Member Children's Hospital of Philadelphia: "Doctors Work With Engineers to Improve Diagnoses"

RCPA NEWS

RCPA Presents Two Awards

RCPA Presents Public Official of the Year Award to Secretary Murphy

The RCPA Public Official of the Year Award is presented to an individual in recognition of extending outstanding service and knowledge to the community at large by using their position in public office to help promote, assist, or alleviate public policy obstacles faced by members of the community served by RCPA members. RCPA President and CEO Richard Edley presents this award to Secretary Karen Murphy, Department of Health.





RCPA Presents Award to Senator Casey

The Legislative Leadership Award is presented to an individual who has shown significant leadership and commitment to government affairs and legislative issues on behalf of RCPA and its members. Here, US Senator Bob Casey receives his award from RCPA President & CEO Richard Edley, along with RCPA Board members Alan Hartl of Lenape Valley Foundation, Inc. and Susan Blue of Community Services Group.

Chronic Care Act Discussion Draft Released

Senate Finance Committee Chair, Orrin Hatch, and Ron Wyden, along with co-chairs of the Finance Committee Chronic Care Working Group, recently released the Creating High-Quality Results and Outcomes Necessary to Improve Chronic Care Act of 2016 discussion document (section-by-section summary). This discussion draft was released in an effort to improve health outcomes for Medicare beneficiaries living with chronic conditions.

Final Rule Implementing MACRA Published

On November 4, 2016, the Centers for Medicare and Medicaid Services (CMS) published the final rule with comment period for the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) as the payment program that will replace the Sustainable Growth Rate methodology. The rule finalizes MACRA's Quality Payment Program, whose primary goal is to reduce administrative burden on physicians to allow them to focus on improving care, promote the adoption of value-based care, and smooth the transition to these new models of care. The final rule establishes guidelines for Medicare health care providers to participate in either the Advanced Alternative Payment Models (APMs) or the Meritbased Incentive Payment System (MIPS), which consolidates components of three existing programs: the Physician Quality Reporting System, the Physician Value-based Payment Modifier, and the Medicare Electronic Health Record (EHR) Incentive Program for Eligible Professionals. According to CMS, the Advanced APMs pathway provides clinicians with the opportunity to be paid more for better care and investments that support patients by reducing existing requirements, while still emphasizing and rewarding quality care. Participants in the advanced APMs must meet the following requirements:

- Be part of CMS Innovation Center models, Shared Savings Program tracks, or certain federal demonstration programs;
- Use certified EHR technology;
- Base payments for services on quality measures comparable to those in MIPS; and
- Be a medical home model expanded under innovation center authority or require participants to bear more than nominal financial risk for losses.

The final rule has a 60-day comment period, with comments due by Monday, December 19, 2016. RCPA will be offering a webinar in the near future (tentatively scheduled for December 12, 2016) on the details of the final rule, hosted by the American Medical Rehabilitation Providers Association (AMRPA). Be on the lookout for information on the webinar within the week.

USDOL Says FLSA Does Not Preempt State Law

On November 17, 2016, the US Department of Labor's Wage and Hour Division issued Administrator's Interpretation Number 2016-2 (AI 2016-2), which tries to clarify the effect of state laws prohibiting the payment of subminimum wages to workers with disabilities on the enforcement of section 14c of the Fair Labor Standards Act (FLSA). It is the administrator's interpretation that state laws which prohibit the payment of subminimum wages to workers with disabilities, and thus create a higher minimum wage than the Federal minimum wage requirement for those workers, do not conflict with the FLSA. This means that, if a state has passed a law prohibiting subminimum wage, or requiring a higher-than-federally-mandated minimum wage applicable to all populations without exception, then all workers must receive nothing less than the state-required minimum wage.

Pennsylvania does not have any such law prohibiting subminimum wage for workers with disabilities, but an executive order was signed by Governor Wolf in early 2016 requiring a minimum wage of \$10.15 per hour for certain state contracts. To date, that executive order has been interpreted as not requiring \$10.15 per hour for workers getting subminimum wage pursuant to a 14c certificate. The federal interpretation emphasizes that rules governing 14c do not preempt "state law," and so stakeholders will need to pay close attention to how the governor's office views the federal interpretation in light of its executive order. AI 2016-2 does include possible exceptions. For example, a 14c holder may be able to pay subminimum wages if it has a federal contract covered by the McNamara-O'Hara Service Contract Act, notwithstanding a state law that might exist prohibiting subminimum wage.

CMS Announces Next Round of Recovery Audit Contractors

- On October 31, 2016, the Centers for Medicare and Medicaid Services (CMS) announced the awards for the Medicare Feefor-Service (FFS) Recovery Audit Contractor (RAC) contracts. The five regions include:
- Region 1 Performant Recovery, Inc.;
- Region 2 Cotiviti, LLC;
- Region 3 Cotiviti, LLC;
- Region 4 HMS Federal Solutions;
- Region 5 Performant Recovery, Inc.

Pennsylvania is under Region 4. Maps depicting the new regions and related RACs are available in the "Downloads" section of the Future Changes page on CMS' website. The RACs in Regions 1-4 will perform post-payment reviews to identify and correct Medicare claims that contain improper payments (overpayments or underpayments), made under Part A and Part B, for all provider types other than Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) and Home Health/Hospice. The Region 5 RAC will be dedicated to the post-payment review of DMEPOS and Home Health/Hospice claims nationally. These awards continue the implementation of many of the Recovery Audit Program enhancements designed to reduce provider burden, enhance program oversight, and increase transparency in the program. CMS will continue to update this website with more information on the implementation of the new RACs.

New Online Tool Launched to Assist Clinicians With Quality Program

In mid-November, the Centers for Medicare and Medicaid Services (CMS) launched a tool designed to share automatically electronic data for the Medicare Quality Payment Program. This new release is the first in a series that will be part of CMS's ongoing efforts to spur the creation of innovative, customizable tools to reduce burden for clinicians, while also supporting high-quality care for patients. In October, CMS released the Quality Payment Program website, an interactive site to help clinicians understand the program and successfully participate. The most recent release, commonly referred to as an Application Program Interface (API), builds on that site by making it easier for other organizations to retrieve and maintain the Quality Payment Program's measures and enable them to build applications for clinicians and their practices.

OPPS Final Rule With Comment Period Published

The Centers for Medicare and Medicaid Services (CMS) released and published the Medicare hospital outpatient prospective payment system (OPPS) final rule with comment period on November 14, 2016. The final rule estimates payments to hospitals will increase 1.7 percent. The final rule also implements the site neutral payment provisions of the Bipartisan Budget Act of 2015, which requires that certain items and services furnished by certain off-campus hospital outpatient departments to be no longer be paid under the OPPS beginning January 1, 2017, by detailing which off-campus hospital outpatient departments are subject to this requirement and which items and services are "excepted" from application of these payment changes and will continue to be paid under the OPPS. Comments will be accepted until December 31, 2016.

CMS Releases Medicare Physician Fee Schedule Final Rule

The Centers for Medicare and Medicaid Services (CMS) released and published the 2017 Medicare Physician Fee Schedule final rule on November 15, 2016. The rule finalizes several coding and payment changes in an effort to better identify and value primary care, cognitive services, and chronic care management, including payment for new codes for complex chronic care management and for extra care management furnished by a physician or practitioner following the initiating visit for patients with multiple chronic conditions. The final rule goes into effect on January 1, 2017.

CMS Webinar to Focus on Chronic Care Management System & Quality Improvement Organization Services

The Centers for Medicare and Medicaid Services (CMS) will be conducting their monthly partner webinar on December 6, 2016 from 2:30 pm to 3:30 pm. The webinar will feature presentations on Chronic Care Management System and Quality Improvement Organization Services. Registration is required to attend. Upon registration, participants will receive an email from messenger@webex.com with the call information and webinar link.

DOJ Issues Olmstead Guidance for Employment Services

On October 31, 2016, the US Department of Justice (DOJ) issued the *Statement* of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C. In Olmstead v. L.C. (Olmstead), the US Supreme Court held that the Americans with Disabilities Act prohibits the unnecessary segregation of individuals with disabilities. Initially, disability advocates focused on how the court decision applied to individuals in or at risk of entering state institutions. More recently, the DOJ has used Olmstead in states like Rhode Island and Oregon to challenge whether publicly-funded programs were relying too heavily on the use of "sheltered workshops" to provide services to people with disabilities. Notwithstanding the actions of the DOJ in those states, a clear policy statement on how Olmstead would be applied to publicly-funded employment services has been lacking. Now that this DOJ guidance has been issued, public agencies and stakeholders alike are studying the possible impact. In short, the DOJ guidance made it clear that certain employment programs – especially traditional facility-based vocational programs – are vulnerable to Olmstead enforcement by the federal government. The guidance also gives insight as to how the DOJ will consider a public system's defense against claims of Olmstead violations.

While not verbatim from the DOJ guidance, it seems that answers to the following questions might be considered:

- Does the state's public education system provide students with disabilities with meaningful alternatives to traditional facility-based programs in their individualized education programs?
- Are people with disabilities given the opportunity to make informed choices about their options?
- Do people with disabilities have access to community-based employment services through their state vocational rehabilitation programs?
- Does the public system pay for services considered to be community-integrated, and has it done enough to build and sustain the provider capacity necessary to make those services a real option for people with disabilities?
- If people with disabilities work in facility-based programs, are they able to participate in meaningful community activities during non-work hours?
- In the workplace, to what extent are people with disabilities working with and alongside workers without disabilities?
- And, to what extent do workers with disabilities engage members of the community without disabilities in their job?

Olmstead is just one of the many pressures state policy makers are feeling as they develop program and policy changes for the future. Other factors driving reform efforts are the new CMS Home and Community-based Services rule and federal Workforce Innovation and Opportunities Act.

CMS Seeks Ideas on HCBS Workforce, Quality, Integrity

On November 9, 2016, the federal Centers for Medicare and Medicaid Services (CMS) issued a "Request For Information," soliciting ideas from stakeholders on how to ensure the provision of timely and quality Home and Community-based Services (HCBS). This request for information seeks information and data on additional reforms and policy options that CMS can consider to accelerate the provision of HCBS, taking into account issues affecting choice and control, program integrity, rate setting, quality infrastructure, and the workforce.

Key questions asked by CMS are as follows:

- 1. What are the additional reforms that CMS can take to accelerate the progress of access to HCBS and achieve an appropriate balance of HCBS and institutional services in the Medicaid long-term services and supports system to meet the needs and preferences of beneficiaries?
- What actions can CMS take, independently or in partnership with states and stakeholders, to ensure the quality of HCBS, including beneficiary health and safety?
- 3. What program integrity safeguards should states have in place to ensure beneficiary safety and reduce fraud, waste, and abuse in HCBS?

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CMS SEEKS IDEAS...

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4. What specific steps could CMS take to strengthen the HCBS home care workforce, including establishing requirements, standards, or procedures to ensure that rates paid to home care providers are sufficient to attract enough providers to meet service needs of beneficiaries — and that wages supported by those rates are sufficient to attract enough qualified home care workers?

Input must be submitted no later than 5:00 pm on Monday, January 9, 2017. In addition to submitting information to CMS, please feel free to share your ideas with RCPA.

New Online Tool to Make Quality Payment Program Easier for Clinicians

The Centers for Medicare & Medicaid Services (CMS) released a tool to automatically share electronic data for the Medicare Quality Payment Program. This is the first in a series that will be part of CMS' ongoing efforts to spur the creation of innovative, customizable tools to reduce the burden for clinicians, while also supporting high-quality care for patients.

In October, CMS released the Quality Payment Program website, an interactive site to help clinicians understand the program and successfully participate. The new tool, commonly referred to as an Application Program Interface (API), builds on that site by making it easier for other organizations to retrieve and maintain the Quality Payment Program's measures and enable them to build applications for clinicians and their practices. The API, available online, will allow developers to write software using the information described in the "Explore Measures" section of the Quality Payment Program website. Based on interviews with clinicians, CMS created the Explore Measures tool, which enables clinicians and practice managers to select measures that likely fit their practice, assemble them into a group, and print or save them for reference. Already, tens of thousands of people are using this tool. "An important part of the Quality Payment Program is to make it easier and less expensive to participate, so clinicians may focus on seeing patients," said Andy Slavitt, Acting Administrator of CMS. "This first release is a step in that process, both for physicians and the technologists who support them."

STATE NEWS BRIEFS

Pennsylvania Ranks Ninth Nationally for Overall Mental Health

Department of Human Services Secretary Ted Dallas announced that Pennsylvania ranked ninth in overall mental health in a recent Mental Health America (MHA) report – an improvement from a 2011 ranking of 15th.

MHA recently released its annual *State* of *Mental Health Report*, which ranks all 50 states and the District of Columbia based on several mental health and access measures. Pennsylvania's overall ranking indicates a lower prevalence of mental illness and higher rates of access to care in comparison to most states. The report includes data about both adult and youth mental health, as

well as prevalence and access to care measures:

- One in five adults have a mental health condition – that is over 40 million Americans; more than the populations of New York and Florida combined.
- Nationally, youth mental health is worsening, with rates of youth depression increasing from 8.5 percent in 2011 to 11.1 percent in 2014. Eighty percent of youth with severe depression were left with no or insufficient treatment.

 Access to care is critical to getting Pennsylvanians the help they need. In 2014, fifty-six percent of American adults with a mental illness did not receive treatment. The access measures include access to treatment, insurance, special education, quality and cost of insurance, and workforce availability.

The results show that nationally there is increased health care coverage, but states are still falling short in meeting the needs of those with mental health concerns.

Five New Employment-Related Services in OLTL Recently Approved

The Centers for Medicare and Medicaid Services (CMS) recently approved five new employment-related services in the Office of Long-Term Living's (OLTL) CommCare and Independence waivers. The services offer providers an opportunity to expand their profiles, particularly those who have been providing prevocational services and supported employment. Listed below are the new services, their credentialing and certification requirements, and rates that will be paid for the services.

- Benefits Counselors must hold a Certified Work Incentives Counselor (CWIC)
 certification that is accepted by the Social Security Administration for its Work
 Incentives Planning and Assistance program. To learn more about CWIC, visit
 this web page.
- Employment Skills Development (replaces Prevocational Services), Job Coaching (replaces Supported Employment), Job Finding, and Career Assessment workers must hold one of the following:
 - a. A Certified Employment Support Professional credential from the Association of People Supporting Employment First (APSE); and
 - b. A Basic Employment Services Certificate of Achievement or Professional Certificate of Achievement in Employment Services from an Association of Community Rehabilitation Educators (ACRE) organizational member that has ACRE-approved training. Individuals without one of these certifications must be supervised by an individual holding the above certification until certification is achieved. Certification must be achieved within 18 months of employment.

Information on APSE credentialing can be found here. Information on how to receive a certificate of achievement from ACRE can be found here. (NOTE: Employment Skills Development services that are provided in vocational rehabilitation facilities that fall under 55 PA Code Chapter 2390 are not required to have the above credential or certification. Employment Skills Development services provided in the community do require the above credential or certification.) A complete description of these services and provider qualifications can be found in the CommCare and Independence waivers here.

OLTL Announces Additional Service Coordinator Training in December

The Office of Long-Term Living (OLTL) has been conducting face-to-face service coordinator training. One additional session has been scheduled in Harrisburg on Tuesday, December 13, 2016, from 8:00 am to 4:30 pm at PaTTAN. Preference is given to new SCs hired in 2016. You must register in order to attend this session. If you have questions about the training, please contact OLTL's Bureau of Participant Operations at 717-787-8091.

RCPA and BH-MCOs Implement a Uniform Credentialing Application

Over the past several months, RCPA has been working closely with all five HealthChoices Behavioral Health Managed Care Organizations (BH-MCOs), counties, and county oversight organizations. The goal has been to find ways to improve the operational efficiency of Behavioral HealthChoices. This has included provider surveys and active and open discussion of the challenges and opportunities faced by both managed care organizations and providers in our complex environment. One important product of this collaboration has been the development of a Uniform Pennsylvania Facility Credentialing Application. Beginning on January 1, 2017, all five of Pennsylvania's BH-MCOs will use this form for provider facility credentialing. This uniform application will be supplemented with the specific BH-MCO addendum forms to meet state and national standards and regulations and to facilitate our ability to maintain current network information.



OIG Releases Work Plan for Fiscal Year 2017

The Office of Inspector General (OIG) recently released their Work Plan for Fiscal Year (FY) 2017. The work plan provides an overview of new and ongoing reviews and activities that the OIG plans to pursue (or continue to pursue) with respect to programs and operations for the Department of Health and Human Services. Some of the new initiatives/reviews include:

- Whether Medicare administrative contractors properly settled
 Medicare costs reports for disproportionate share hospital payments in accordance with federal requirements;
- Whether patients participated in and benefited from intensive therapy, through a sampling of rehabilitation hospital admissions;
- Whether CMS has a system in place to identify inappropriate payments for durable medical equipment, prosthetics, orthotics, and supplies, and recoup payments from suppliers.

IRF Public Reporting Update CDC and NHSN Rebaseline Guidance

As noted in the Rebaseline Timeline posted in the *June 2016 National Healthcare Safety Network (NHSN) Newsletter*, the Centers for Disease Control and Prevention (CDC) submitted standardized infection ratios (SIRs) to the Centers for Medicare and Medicaid Services (CMS), using the new 2015 baseline starting with 2016 Quarter 1 data. The inpatient rehabilitation facility (IRF) quality reporting program (QRP) preview reports that CMS provided on September 1, 2016, contained calendar year (CY) 2015 healthcare-associated infection (HAI) SIRs in accordance with the new NHSN baselines, based on nationally collected data from 2015. However, providers were unable to use NHSN to verify the accuracy of the HAI data contained within their preview reports for the Compare sites during the 30-day preview period established for this purpose.

As a result, CMS will begin publically displaying the NHSN data on the Compare sites for IRFs in the next quarterly refresh in spring 2017 instead of in fall 2016. Providers will have the chance to appropriately review their HAI data and inquire about data they believe to be incorrect. IRFs will receive preview reports in December 2016 for the data that will be displayed in spring 2017.

This change will affect the posting of quality performance data on the quality measure: NHSN Catheter-Associated Urinary Tract Infection (CAUTI) Outcome Measure.

When the IRF Compare website is launched in fall 2016, the following quality metrics will be displayed:

IRFs —

- Percent of residents or patients with pressure ulcers that are new or worsened (short stay); and
- All-cause unplanned readmission measure for 30 days post-discharge from inpatient rehabilitation facilities.

To assist IRFs in understanding the use of the rebaselined data, and how to monitor their data using the new baseline, a document has been posted in the downloads section of the *IRF Quality Public Reporting* web page.

New Provider Compliance Fact Sheet for IRFs Now Available

The new *Provider Compliance Tips for Inpatient Rehabilitation Facility (IRF) – Hospitals and Units* fact sheet for IRFs is now available on the Centers for Medicare and Medicaid Services website.

M E D I C A L R E H A B I L I T A T I O N

CMS Encourages Feedback on Quality Measures for IMPACT Act

The Centers for Medicare and Medicaid Services (CMS) recently posted a project on the CMS public comment page, Quality Measures to Satisfy the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) Domain of: Transfer of Health Information and Care Preferences When an Individual Transitions.

This project involves CMS contracting with RTI International and Abt Associates to further develop a crosssetting post-acute care transfer of health information and care preferences quality measure in alignment with the IMPACT Act. The purpose of the project is to develop, maintain, re-evaluate, and implement measures reflective of quality care for post-acute care (PAC) settings to support CMS quality missions, including the Inpatient Rehabilitation Facility Quality Reporting Program, Long-Term Care Hospital Quality Reporting Program, the Nursing Home/Skilled Nursing Facility Quality Reporting Program, and the Home Health Quality Reporting Program. In addition, this project will address the domains required by the IMPACT Act, which mandates specification of cross-setting quality, resource use, and other measures for post-acute care providers.

The areas of focus for commenting, along with documents for review, are provided on the public comment page and are encouraged to be reviewed prior to submitting comments. The public comment period closes on Sunday, December 11, 2016.

MENTAL HEALTH HEADLINES

CCBHC Application Submitted to the Substance Abuse and Mental Health Services Administration

On October 31, after participating in the months long demonstration grant, the Office of Mental Health and Substance Abuse Services (OMHSAS) submitted the application to fund ten Certified Community Behavioral Health Clinics (CCBHCs) across the Commonwealth. The clinics represent both urban and rural locations throughout Pennsylvania. While the final funding decision isn't likely to be awarded until the end of 2016, the ten clinics and OMHSAS are moving forward with planning for a July 2017 implementation.

Mental Health Outpatient Regulations Update

The outpatient regulations are currently under review at the governor's office. It is anticipated that the regulations will be released as proposed and move into the Independent Regulatory Review Commission process by March. As reported by the Office of Mental Health and Substance Abuse Services personnel, there have been very few changes to the document, keeping with the spirit of the work that occurred over the last few years.

RCPA and the Behavioral Health Managed Care Organization Task Force Update

As noted previously in this newsletter, the Uniform Facility Credentialing Form, and the process to achieve standardization across all of the Pennsylvania managed care organizations, was presented at the RCPA annual conference and is ready for use beginning January 2017. The ability to work through this process and create this form was made possible by the collaboration of the state, all the counties, and managed care companies. The 2017 focus will be on reviewing how to create a standard treatment record review. This initiative will be discussed in several forums over 2017.



RCPA Letter to DDAP and OMHSAS for Fair Rate Setting Process

Pennsylvania is experiencing an opioid crisis of unprecedented proportions. A document summarizing of one of the most significant problems in the drug and alcohol treatment system was recently sent to Secretary Gary Tennis, Department of Drug and Alcohol Programs (DDAP) and Deputy Secretary Dennis Marion, Office of Mental Health and Substance Abuse Services (OMHSAS).

The drug and alcohol programs have been chronically underfunded for many years. Treatment providers have worked to operate efficiently and within the constraints of budgeting limitations. However, the consequences of these financial limitations, particularly the lack of rate increases, have caused severe financial strain on the provider system. The lack of a fair rate setting process which assures that the reasonable cost of services are covered has led to inadequate rates, resulting in programs closing, no longer working in the publicly funded system, or refusing to increase the size of their commitment to offering services to public clients. This can best be evidenced by the extreme lack of detox facilities available today.

RCPA has requested an opportunity to work with DDAP and OMHSAS to assure adequate services to meet the needs of the citizens of Pennsylvania. The next step will be to meet with both officials to discuss the critical issue of implementing a fair rate setting process. Contact RCPA Director, Drug & Alcohol Division, Lynn Cooper, with any questions.

Illegal Routing of Calls for Treatment Placement Creates Major Problem

The Department of Drug and Alcohol Programs (DDAP) sent an announcement out to the drug and alcohol community warning of incorrect routing of calls for treatment placement. The purpose of the announcement is to make single county authorities (SCAs) and treatment providers aware of an issue that has been occurring more frequently over the past few days. Individuals from the general public have been using Google to locate treatment providers and/or SCAs and the phone number Google shows for the facility is NOT that of the SCA/provider. Apparently, scammers are working to direct unsuspecting people in need of treatment to programs in Florida. As to be expected, their interest is only with people who have private insurance. These scams are creating roadblocks to treatment and major confusion for those seeking needed treatment. Numerous RCPA members have verified that these acts are creating major problems. Members have reported that these companies, and ones like them, are using false and misleading advertising/tactics and illegally using the identities of treatment providers here in Pennsylvania.

DDAP reported that it appears there is an option on Google where the SCA/provider can suggest an edit to the incorrect information and by doing so, can select scam/scammer as the reason for the change. DDAP is working hard to get callers the correct contact information for the SCA/provider. Individual agencies may want to attempt to correct the information on the web search engines whenever possible. Both DDAP and RCPA are contacting the Attorney General's Office to seek assistance with this illegal activity in the hopes that it can be addressed. Questions should be directed to Lynn Cooper.

BRAIN INJURY

OLTL Releases Draft IEB RFP; RCPA Submits Comments

On October 28, 2016, the Office of Long-Term Living (OLTL) released a draft Request for Proposal (RFP) for an Independent Enrollment Broker (IEB) to manage the enrollment processes for all OLTL programs. The RFP includes enrollments for Community HealthChoices when implemented, Home and Community-based Services Waivers, the Act 150 program, and the LIFE program. On November 21, RCPA submitted comments on behalf of its Brain Injury Committee members to the OLTL in response to the draft IEB RFP.

Upcoming Webinars Announced by BIAA

The Brain Injury Association of America (BIAA) recently announced its schedule for upcoming live webinars during the months of December 2016 through April 2017. Registration is required to participate and ends two days prior to the date of each live webinar.

Employment Data Now Being Tracked by ODP

As of November 12, 2016, the Office of Developmental Programs (ODP) Supports Coordination-Individual Support Plan Monitoring Tool will include six new employment questions. The employment questions have been added to support the Employment First policy articulated in Governor Wolf's Executive Order 2016-03. The data will be used to monitor progress and inform the development of necessary policy and program improvements in the future. It is expected that aggregate data will be published and made available to stakeholders and used by ODP's Information Sharing and Advisory Committee in its quality management oversight role. The questions are as follows:

- Question 1 Is the individual working in a competitive integrated job?

 Competitive integrated employment is defined here as earning minimum wage or better and working in a setting where a majority of workers don't have a disability, and the individual is paid directly by the employer and not by the service provider. If the answer is "yes," then questions 2 through 6 are asked. If the answer is "no," then the only other question asked is whether the individual is enrolled in a prevocational or transitional work service.
- Question 2 Is the individual self-employed?

 Self-employment is defined as earning income directly from one's own business, trade, or profession, rather than wages or a salary from an employer.
- **Question 3** How many jobs is the individual working that meet the definition of competitive integrated employment?
- Question 4 Estimated average hours worked per typical work week.
- Question 5 Job type (from a dropdown list)?
- Question 6 Does the individual receive paid benefits?

Additional guidance and information from ODP can be found here.

Comprehensive Rewrite of Regulations Proposed by ODP

On November 5, 2016, the Office of Developmental Programs (ODP) published proposed new funding regulations and changes to licensing regulations in the *Pennsylvania Bulletin*. The primary purpose of these proposed regulations is a comprehensive rewrite of the current Chapter 51 regulations. The proposed changes licensing regulations (2380, 2390, 6400, and 6500) are intended to ensure that the licensing and 6100 regulations do not conflict. The regulations can be found here.

RCPA has established a work group of the Intellectual and Developmental Disabilities Committee to review the proposed regulations and develop consensus comments that will be submitted on behalf of RCPA. In addition, every RCPA member is encouraged to submit its own comments directly to ODP. Comments should be sent to Julie Mochon, Human Service Program Specialist Supervisor, ODP Health and Welfare Building, 625 Forster Street, Room 502, Harrisburg, PA, 17120. The public has until Tuesday, December 20, 2016, to submit public comments. Questions for RCPA staff should be directed to Steve Suroviec.

New Dates for ODP Waiver Renewal Webinars

The Office of Developmental Programs (ODP) is expected to soon release proposed changes to its Consolidated and Person/Family Directed Supports (PFDS) waivers. The changes will be submitted to the federal Centers for Medicare and Medicaid Services (CMS) as part of ODP's waiver renewal request, which -- if approved by CMS - is scheduled to take effect on July 1, 2017. ODP had originally scheduled two webinars in November and one in December to give stakeholders the opportunity to provide formal comments or to simply learn more about the planned changes. Given delays in the process, ODP has rescheduled those webinars for January. The new dates and times are as follows:

- Thursday, January 12, 2017
 1:00 pm 4:00 pm
- Friday, January 13, 2017
 9:00 am 12:00 pm
- Tuesday, January 17, 2017
 1:00 pm 4:00 pm

You can register for the new webinars here.

These webinars will not be your only opportunity to comment – written comments will also be accepted during the formal comment period. RCPA staff will be monitoring these two proposals closely. In collaboration with RCPA's Intellectual and Developmental Disabilities Committee chairs, a work group will be convened to inform the development of comments that RCPA will submit on behalf of its members. Individual providers will be encouraged to submit their own comments as well. Questions can be directed to Steve Suroviec.

Lead Threat to Children: Effort Expands to Line up With CDC Standard

Universal Screen Urged for all Children

September 4, 2016

By Jill Daly / Pittsburgh Post-Gazette

creening young children for lead in their blood is the first step before they are eligible for any services designed to correct or lessen developmental problems caused by lead poisoning.

Even if they don't always show problems right away, children with high lead levels fall into a risk category that can be tracked, according to Michelle Myers-Cepicka, CEO of the Alliance for Infants and Toddlers, the lead agency working with the Allegheny County Department of Human Services for early intervention services for children up to age 3.

Screening rates and referrals to services are considered low in Allegheny County, but efforts to make more children eligible for help recently moved forward at both the state and federal levels.

Lead poisoning can bring on slowed development and growth, damage to the brain and nervous system, learning and behavior problems and hearing and speech problems.

The state Office of Child Development and Early Learning Wednesday sent out updated guidance urging infant/toddler and preschool intervention agencies to work to help children with levels above 5 micrograms of lead in a deciliter of blood, even if there seems to be no problems. They are now automatically eligible for tracking services.

Pennsylvania offers monitoring of children who are reported at risk because of high lead levels, as well as the categories of very low birth weight, a stay in a neonatal intensive care unit, born to a drug-addicted mom, substantiated cases of abuse and homelessness.

"The reason they track these risk categories," Ms. Myers-Cepicka said, "is with these, there is a better chance the child will have a developmental delay." After an evaluation, if there are no developmental delays at that time, the child is seen every three months, to gauge progress. Preschoolers are evaluated every two years.

"If we see any issues, we would then arrange for a child to get some services. If a child shows a high lead level, and shows delays, services are immediately available," Ms. Myers-Cepicka said.

"It's voluntary," she added, "If a child is eligible for early intervention, tracking or services, we cannot turn them down. It's a federal entitlement."

Families will continue to be offered services when children are found at the 10 microgram level. No level of lead is considered safe, but the U.S. Centers for Disease Control and Prevention considers 5 micrograms and above as a measure to identify children with levels higher than most children. The state Department of Health has also determined that to be

a dangerous level of lead poisoning, for tracking purposes.

A major obstacle to finding children at risk, Ms. Myers-Cepicka said, is that pediatricians are the ones who order the blood testing and make recommendations that families ask for services.

"We don't have the referral numbers that people would hope for," she said. She advocates screening of all children in doctors' offices.

Since 2003, she said, the highest number of referrals were in 2008–09 and in 2011–12, both when 16 cases were referred. "Now it's in the single digits. We can tell people they should do them, but we need to rely on pediatricians to do that and follow up on families."

The state policy change comes just two months after Allegheny County Health Director Karen Hacker and Marc Cherna, director of the county Department of Human Services, wrote to state health and human services officials, asking that services be made available to children with blood lead levels of 5 micrograms and above.

"We asked them to lower the level of blood lead to allow the child to be evaluated and tracked. They did it!" Dr. Hacker said Friday. Children at 5 micrograms can be monitored, she said, and at that point the family can be educated about the importance of reducing the lead hazard in the home. Because more children may become eligible for services, doctors may step up their own screening efforts, Dr. Hacker said.

"For physicians, this will probably be an incentive to test," she said.

Launching an effort to improve screening rates, in July Dr. Hacker recommended universal screening of young children for lead poisoning before the county Board of Health, saying that it would both focus efforts to help children with lead in their blood and point to home locations that may pose the greatest risk to them. She said she was concerned that fewer than 20 percent of Allegheny County's children are being tested.

Testing establishes that a child is being exposed to lead, most often found in paint and soil around older homes and aging lead water pipes.

To protect young children living in federally owned or assisted housing who may be exposed to lead, Julian Castro, secretary of the U.S. Department of Housing and Urban Development, Thursday announced a proposed amendment to the Lead Safe Housing Rule. It would establish new testing and evaluation procedures, lowering from 20 micrograms down to 5 micrograms the threshold to trigger lead hazard reduction services.

Jill Daly: jdaly@post-gazette.com, 412-263-1596

Inequities Affecting Black Girls in Pittsburgh & Allegheny County

FISA Foundation, in partnership with the Heinz Endowments, commissioned *Data Snapshot: Inequities Affecting Black Girls in Pittsburgh and Allegheny County* to draw attention to alarming gender and racial disparities that black girls in our region face and to highlight the unique ways in which this cohort of children experience institutional racism and sexism. Over the coming years, FISA will continue to fund advocacy efforts to change policies and practices that unfairly disadvantage girls of color and girls with disabilities.

The author of this study is Sara Goodkind, an Associate Professor of Social Work, Sociology and Gender, Sexuality, and Women's Studies at the University of Pittsburgh. Her research focuses on programs and services for young people, particularly those in the juvenile justice and child welfare systems. Much of her work involves efforts to improve programs that focus on girls and young women in the juvenile justice system. Please contact Robena Spangler, RCPA Director of Children's Services, with any questions.



CALENDAREvents subject to change; members will be notified of any developments

Building Teams & Preventing Burnout: Strategies to Maximize Effectiveness of the Pediatric Rehabilitation Team Friday, December 2 10:00 am – 3:00 pm BHECON/RCPA Forum Crowne Plaza Hotel 12 South 2nd Street Harrisburg, PA 17101 Tuesday, December 6 1:00 pm – 4:00 pm Penn Grant Centre Wednesday, December 7 1:00 pm – 4:30 pm Criminal Justice Committee Children's Division Penn Grant Centre Fuesday, December 13 12:00 pm – 1:00 pm IPRC Advocacy, Education & Membership Committee Conference Call Wednesday, December 14 9:00 am – 12:00 pm Open Board Meeting Penn Grant Centre Thursday, December 15 10:00 am – 12:30 pm Medical Rehabilitation Committee Penn Grant Centre Tuesday, December 20 12:15 pm – 1:00 pm IPRC Outcomes & Best Practices Committee Conference Call				
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Wednesday, January 11 10:00 am – 2:00 pm Brain Injury Committee Penn Grant Centre	Wednesday, January 11	10:00 am – 2:00 pm		
Thursday, January 12 10:00 am – 3:00 pm BHECON/RCPA Forum Penn Grant Centre	Thursday, January 12	10:00 am – 3:00 pm		
Tuesday, January 17 12:15 pm – 1:00 pm IPRC Outcomes & Best Practices Committee Conference Call	Tuesday, January 17	12:15 pm – 1:00 pm		
Wednesday, January 25 10:00 am – 3:30 pm Children's Steering Committee **RCPA Conference Room**	Wednesday, January 25	10:00 am – 3:30 pm	——————————————————————————————————————	