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To: Senate Health and Welfare Committee
From: Trinka Kerr, Chief Health Care Advocate
Date: April 21, 2015
RE: S. 135 Senate Finance proposal, Draft 4.4

This memo summarizes the Office of the Health Care Advocate's (HCA's) concerns with the Senate Finance Committee's proposal of amendment for S.135.

Section 2 Global Hospital Budgets

The HCA supports the pursuit of an all payer waiver outlined in Section 1 but is concerned about the requirement in Section 2 that the Green Mountain Care Board must obtain a waiver by January 1, 2016 or begin developing and implementing global budgets for each hospital. The Board does not have control over the Centers for Medicare and Medicaid Services and cannot guarantee that this time table will be met. The HCA supports a requirement that the Board and the administration report back to the legislature on the progress of its request for an all payer waiver by January 1, 2016.

Section 3 St Johnsbury Health Service Area: Global Budget Pilot

The HCA is concerned that the pilot project described in Section 3 could conflict with either an all payer waiver or with other forms of global hospital budgets described in Section 2. This pilot involves a global budget of Medicaid spending only and would not be coordinated with payments made to other payers. It also involves coordinating spending by hospitals with spending by other providers and would therefore be different from the statewide global hospital budget approach described in Section 2.

If the legislature determines that the pilot project should be developed, the HCA requests that the proposed language on page 2, lines 17 to 19, be amended to add the following italicized language requiring that the Department of Vermont Health access “shall work cooperatively with the participating providers *and with consumers and consumer advocacy organizations* to ensure that the pilot allows for improvement of care and expansion of services while remaining budget neutral.”

Section 5 Vermont Information Technology Leaders

The HCA is concerned that the membership on the VITL Board is heavily dominated by provider and health plan representatives. We suggest that the membership should include either two consumer representatives or one consumer representative plus one representative of a consumer organization.

Section 21 Health Care Data Base

The HCA believes that rather than repealing 18 V.S.A. §9410 (a) (2) (B), the statute should be amended to transfer the optional power to require an insurer to file a health care price and quality information plan to the Green Mountain Care Board.

Section 22 Quality Assurance for Managed Care Organizations

18 V.S.A. § 9414(a) (1) gives the Commissioner of the Department of Financial Regulation (DFR) “the power and responsibility to ensure that each managed care organization provides quality health care to its members.” It currently specifies that as part of this duty to ensure quality of care, the Commissioner “shall review and examine” a number of important quality areas. The proposed language in Draft 4.4 provides that the Commissioner would continue to review and examine utilization management and grievance and appeal procedures but would no longer review and examine the following important areas: “ the organization’s administrative policies and procedures, quality management and improvement procedures, ..., credentialing practices, members’ rights and responsibilities, preventive health services, medical records practices, ... member services, financial incentives or disincentives, disenrollment, provider contracting, and systems and data reporting capacities.” The proposed language does not state what state entity would have authority over these important consumer protections and would be able to enforce violations of the standards.

The detailed regulation outlining the responsibilities of managed care organizations is DFR Rule H-2009-03. Its stated purpose is “to set forth the consumer protection and quality requirements that managed care organizations shall meet.” The HCA believes that the entire rule should be reviewed to be sure that all of the important consumer protections outlined in the rule are maintained and that some agency in state government has oversight and enforcement authority over each area. Until this review is complete, the statutory language in 18 V.S.A. § 9414 (a) (1) should not be changed.