

# Testimony to House Committee on Health Care by VEHI Trust Administrators Bobby-Jo Salls and Mark Hage

Tuesday, April 9, 2019

## Introduction

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Good afternoon, my name is Mark Hage. I'm the Director of Benefit Programs at Vermont-NEA, but I am speaking in my capacity today as a Trust Administrator for the **Vermont Education Health Initiative – VEHI**.

With me is my colleague Bobby-Jo Salls, who is employed by the Vermont School Board Insurance Trust (VSBIT) and is also a VEHI Trust Administrator. She came to VEHI after working for two decades with BCBSVT, and, like me, has devoted many hours to the matter that brings us here.

Thank you for the opportunity to testify. *Respectfully, we need to stress that as VEHI staff we cannot speak for or against S.41 at this time, for the sole reason that our Board of Directors, which sets policy for the organization, has not taken a position on the bill.*

Our testimony today will be exclusively about the experiences, past and present, faced by active school employees and school districts in respect to Third Party Administrators and the management of health spending accounts. Problems are ongoing, as you'll learn, but we will focus chiefly on the events of 2018.

Also, while we will be devoting our time to explicating a host of problems arising from the actions of certain TPAs, VEHI, like yourselves, has no wish to put any TPA out of business; moreover, not all experiences by school districts with TPAs have been negative or damaging.

Finally, we will also do our best to boil down this situation, which is complex and multi-faceted, to its most salient features. Most of our testimony will be specific to events prior to and after the decision by Future Planning Associates to terminate its contract with school districts to administer health spending accounts and to provide reimbursements to school employees for out-of-pocket medical and pharmaceutical expenses.

On pages 6-7, you will find a list of issues and problems school employees and school districts have grappled with over the last year. We will speak to those directly, but, first, we thought it would be helpful to explain some key terms and facts, and to provide you with an historical context for the issues we will be discussing.

## Key Terms & Facts

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1. Out-of-pocket costs are deductibles, co-insurance and co-payments for prescriptions or medical services. These costs are in addition to premium co-sharing between school districts and school employees.
2. OOP cost-sharing for the period we are concerned with – 2018/2019 – was collectively bargained for most school employees at the local level, as was premium co-sharing.

3. Health spending accounts for our purposes are (a) health reimbursement arrangements (**HRAs**), (b) Health Savings Accounts (**HSAs**) and (c) Flexible Spending Accounts (**FSAs**).
4. Third Party Administrators (TPAs) are contracted by school districts, *not* VEHI, to manage health spending accounts.
5. 34,500 active school employees (teachers, support staff and administrators) and their dependents were enrolled in four new health benefit plans by VEHI effective January 1, 2018.<sup>1</sup>
6. Active employees and their dependents have been affected by the TPA events of 2018, *not* retired teachers and their dependents, who are enrolled in different VEHI Plans through the Vermont State Teachers' Retirement System.<sup>2</sup>
7. Although four new benefit plans went into effect in 2018, 90 percent of active school employees are enrolled in one plan – a high-deductible health option called the Gold Consumer Directed Health Plan (Gold CDHP). Thus, the lion's share of the TPA problems were encountered by employees in this plan who had HRAs and FSAs with Future Planning Associates.
8. Lastly, claims are forwarded electronically, on a weekly basis, from BCBSVT to all TPAs currently under contract with Vermont schools except one (Advanced Benefit Solutions).

#### **Historical Context: 2017 - 2018**

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- a) There was a lot of complexity and variation in insurance cost-sharing arrangements negotiated statewide in respect to first- and last-dollar obligations by employers and employees, how those obligations were calculated and structured, and how debit cards were integrated with the new benefit plans for pharmacy purchases.
- b) Based on information shared with us, it is VEHI's understanding that Future Planning Associates (FPA) communicated to schools that it could efficiently manage a range of cost-sharing arrangements that ultimately proved too complex and problematic for its staff and operating system. TPA vendor HealthEquity (HEQ), which contracted with the second greatest number of school districts in 2018 before the advent of DataPath, took the position that the more complex cost-sharing arrangements become, the more difficult they are to administer and, thus, more likely to generate unwelcome experiences for employees and central offices; it limited school districts to fewer cost-sharing options with HRAs and FSAs.
- c) In January, 2018, approximately 57 percent of school districts (representing 73 percent of school employees enrolled in a VEHI benefit plan) had a TPA contract with FPA.<sup>3</sup> Another 34 percent had

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<sup>1</sup> VEHI's total number of covered lives in its benefit plans, active and retired employees and dependents, is approximately 42,400. This includes public and private schools.

<sup>2</sup> Retired teachers and dependents enrolled in VEHI plans through the Vermont State Teachers Retirement System have NOT been impacted because they have different benefit plans without health spending accounts.

<sup>3</sup> Future Planning Associates was managing HRAs and FSAs with debit cards for Rx purchases. And it was obligated in most cases to pay providers directly for claims.

elected Health Equity to do this work (representing 25 percent of school employees covered by VEHI). FPA averaged 570 members per district; HEQ averaged 320 members per district.

- d) Three TPAs had most of the public-school business in 2018:
- Future Planning Associates
  - DataPath Administrative Services (**beginning 5.1.18**)
  - Health Equity
- e) Complaints specific to FPA about delayed enrollment, delayed debit cards, claims processing and customer service began in January, 2018. VEHI staff requested meetings multiple times with FPA to better understand the reasons for delays in reimbursements and to help school districts that were frustrated by the fact that FPA was not answering the telephone or calling back. VEHI also offered to assist FPA in messaging to employees and school districts.
- f) FPA notified school districts the first week of March last year that it would be terminating its TPA contracts with schools effective May 31. VEHI was not informed of the company's decision until after the fact.<sup>4</sup> FPA's decision affected its entire book of school accounts – HRAs, FSAs, and HSAs.
- g) In its termination letter, FPA recommended DataPath<sup>5</sup> to school districts. DataPath signed contracts with most of Future Planning's former school clients in the late winter and early spring, then secured the transfer of claims data from FPA for roughly the first half of 2018. *This means DataPath was receiving and cleaning up old claims at the same time it was receiving electronic files from BCBSVT with new claims.*
- h) **Despite early conversations with VEHI about the nature and scope of the TPA problems school districts were facing, DataPath has since acknowledged that it underestimated initially the number, complexity, and severity of the problems it had inherited from Future Planning.** This had repercussions in respect to the duration of the clean-up process, interactions with and trust in DataPath, and the expectations and experiences of employees and school districts, and for collective bargaining agreements.<sup>6</sup> It also put DataPath's staff under enormous pressure.

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<sup>4</sup> VEHI learned of the decision from a school business manager, who shared the letter from FPA to its school district clients. VEHI asked to meet immediately with FPA to learn more, but the request was denied.

<sup>5</sup> To help school districts, VEHI checked references on DataPath; BCBSVT, at VEHI's request, spoke with colleagues at BCBS in Arkansas. VEHI staff spoke with someone at the state NEA affiliate in Arkansas. Also, DP's technological platform for claims and reimbursement processing was identical to FPAs, which VEHI was assured would expedite the transfer of claims from FPA and their reimbursement. DataPath also explained to us that, as the developer of FSA's software, it would know how to resolve the issues FPA was having with the system. (HealthEquity declined to compete in 2018 for FPA's school clients with HRAs and FSAs due to system and reimbursement complexities and problems it would encounter with a mid-year takeover.)

<sup>6</sup> DataPath told school districts and local unions that, because of the complexity of the clean-up process, it could not honor negotiated **auto-pay to provider** provisions for the balance of 2018. In other words, it could not pay doctors and other medical providers directly; all bills would have to be paid by **employees first**, even if the school district's HRA was obligated to pay first. DataPath also deactivated **debit cards** for a time during the transition from FPA and set new terms for their use in the future, which altered the previous terms of collective bargaining agreements.

- i) By the late summer of 2018, reimbursement and account reconciliation problems were still common and widespread, accompanied by a lot of anger and anxiety. DataPath and VEHI met in Vermont at the company's request, and DP informed us then it was going to re-run all 2018 claims to identify those that were "missing"; this meant searching anew for old claims that had been sent to Future Planning but, for whatever reason, had not been processed for reimbursement purposes. The parties also addressed other issues, including how to expedite and improve customer services from DataPath to employees and central offices. Customer service was an ongoing issue, including long hold times, hang-ups, and lack of follow through.
- j) The re-running of claims proved to be a long turning point. In the fall of 2018, **\$1.1 million dollars** in missed reimbursements were paid from HRAs and FSAs combined to school employees. However, Vermont-NEA and VEHI subsequently heard after this disbursement of funds that there were still school employees owed reimbursements, and school districts were told that overpayments had likely been made, too.
- k) After further research, it came to light that there was, indeed, a large batch of claims still unaccounted for; this is was the result of a system error by DataPath. The TPA informed us and made the necessary technical corrections.
- l) Earlier this year, another \$269,000 in 2018 reimbursements was paid out by DataPath.
- m) VEHI believes all 2018 claims have been accounted for at this time.
- n) However, VEHI and DataPath are still working together to reconcile HRA and FSA health spending accounts from last year and to issue reimbursements to affected school employees. We are also determining to whom **overpayments** may have been made as well and how best to help school districts and employees resolve this issue in a fair and thorough fashion.<sup>7</sup>

VEHI is also closely tracking the progress of 2019 claims reimbursements.

## **Health Equity**

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We have focused most of our time appropriately on Future Planning Associates and the clean-up process by DataPath. In respect to Health Equity, it was not the source of a large volume of complaints in 2018 in relation to lapsed processing of claims, HRA/FSA account reconciliation, web portal accuracy, and reimbursements. However, there were HEQ system complications and complaints about its customer division:

1. The biggest system issue is the difficulty HEQ has processing reimbursements after district mergers occur, specifically those that were done mid-year.
2. Most mergers require a change in Employer Identification Numbers (EIN). In most cases, districts want their health spending accounts to continue as they were originally structured through June

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<sup>7</sup> VEHI has hired a claims and account reconciliation expert, Ken O'Rourke, to assist its trust administrators with investigating and resolving outstanding TPA problems from 2018.

30 – however, when setting up a new EIN for a merger, the HEQ system cannot transition from the former EIN to the new one easily or quickly; it is our understanding that a fair amount of manual recoding is required when this happens, resulting in reimbursement delays for employees.<sup>8</sup>

- Some employees have complained about HEQ’s customer service. They tell stories of having had to speak with more than one HEQ representative when attempting to resolve a problem and of being offered different explanations for the same problem by different representatives. In several cases, school employees had to ask BCBSVT customer service to join them in a three-way telephone conversation, which frequently proved to be effective.

**TPAs Contracting with School Districts in 2018-2019**

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We have seen a significant shift in vendor selection by districts in 2019. DataPath went from serving 73% of school employees after it took over from FPA to 40%. Here are the current vendors and their percentage share of employees in VEHI benefit plans:

<b>TPA Vendors</b>	<b>Percentage of enrollment in 2018</b>	<b>Percentage of enrollment in 2019</b>
DataPath Administrative Services	72.8%	39.6%
HealthEquity	24.3%	29.6%
Choice of Employee (no specific vendor serves the entire work force)	2.0%	2.0%
CsONE	0.8%	16.8%
None (school district does not offer a health spending account)	0.2%	0.2%
Advanced Benefit Solutions	0.0%	1.8%
Healthy Dollars	0.0%	9.9%
	100.0%	100.0%

**Update on 2019**

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The first few months of 2019 have not gone as smoothly as we had hoped, but that is due primarily to a major system conversion at BCBSVT that disrupted the transfer of claims to TPAs. We are communicating regularly with BCBSVT about this and have been assured by the company that it will be paying claims in the time frame VEHI has been accustomed to historically no later than the end of June. In fact, most claims are already being processed expeditiously.

The VEHI staff will continue to keep a close eye on the 2018 reconciliation process by DataPath, as well as on TPA services overall in 2019 by all contracted vendors, to be certain that employees receive the

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<sup>8</sup> This merger problem is not unique to HEQ, but it has been a major issue for the company.

benefits agreed to in their collective bargaining agreements and that school districts get the administration services they were promised.

### **Assisting Employees, Family Members and School Districts**

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VEHI's problem-resolution efforts in this context, which involves engaging with employees and their families, school districts, BCBSVT, DFR and TPAs, have been on a magnitude never experienced before by its trust administrators. Further, VEHI has not formally surveyed school employees or school districts about their TPA experiences, so we are unable at this time to quantify below the number of specific incidents statewide or of the people affected per incident, or of the consequences that ensued for individuals, their dependents, or their school districts.

But we can say with absolute certainty that a very large number of school employees and their family members across the state were impacted adversely, financially and medically, and at various levels of intensity and severity. Over time, the longer their problems went unresolved, the more they compounded, and, understandably, the more upset and angry they became.

Additionally, central office personnel in our schools were heavily burdened this past year with a range of problems they had never encountered before. We hope the lists that follow will shed more light on what school employees and school districts have been dealing with.

### **Major Problems Encountered by School Employees & Their Families**

1. Not receiving reimbursements for claims.
2. Receiving late or incomplete reimbursements.
3. Reimbursements being credited to the wrong health spending accounts (i.e., FSA bills paid with HRA money or HRA bills paid with FSA money).
4. Debit cards not being delivered or delivered late.
5. Failure of debit cards to work properly and consistently at pharmacies.
6. Failure of TPA web portals to provide accurate and timely information to employees.
7. The TPA failing to pay doctors and hospitals on time.
8. Doctors and hospitals warning employees their names would be forwarded to collection agencies if bills were not paid.
9. Collection agencies contacting and threatening employees with legal action.
10. Immense difficulty sorting medical bills and determining who to pay and how much after auto-pay to providers was deactivated.
11. Lack of responsiveness by TPA customer service agents via phone or e-mail.
12. Intolerably long wait times on the telephone – hours, literally – before customer service agents picked up.
13. A huge investment in personal time, by employees and their family members, trying to resolve issues with a TPA, BCBSVT, and doctors/hospitals.
14. Not scheduling or canceling medical appointments – and, in some cases, deferring care until after retirement on June 30 and subsequent enrollment in a VSTRS plan – to avoid dealing with a TPA or out of fear reimbursements would not be forthcoming.
15. Withdrawing money from savings accounts to pay medical bills or to avoid being forwarded to collection agencies.

16. Doctors and other providers refusing to schedule follow-up sessions with patients because they had yet to be paid for past treatments.
17. Dependent care expenses not being reimbursed from FSAs.
18. Contradictory responses from central offices and TPAs, because of a lack of complete or accurate information, on the reasons for a lack of reimbursements or discrepancies in the amounts owed.

### Major Problems Encountered by School Districts

1. Handling an exorbitant number of requests for assistance in 2018 from employees. Many of the employee issues noted above spilled over into central offices. (Bear in mind, for many central offices, there could have been hundreds of employees and/or dependents that needed help.)
2. Balancing the act of helping employees without compromising their medical privacy proved to be a huge task.
3. Unable to respond to employees or to resolve their problems because of a lack of complete, accurate, or timely information.
4. Difficulty verifying and trusting reimbursement authorizations from TPAs or the amounts in account balances for their HRAs and FSAs; it is still not clear to school districts if funds from their HRAs and FSA have been properly paid out.
5. Unexpected changes in administrative fees by DataPath after it secured contracts with FPA's former clients.
6. Lack of specificity in terms and obligations in FPA's contract with school districts.
7. Delays in accessing TPA customer service and account representatives.

### **Conclusion**

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When we look back on the events and lessons of the last year, we would conclude that problems and broken promises in the TPA industry are likelier to happen when a company:

- lacks staff capacity to process regularly large volumes of claims, issue reimbursements, and reconcile different health spending accounts;
- lacks technological sophistication and becomes too dependent on manual processes of uploading claims and disbursing funds from health spending accounts;
- lacks ample staff or expertise when it comes to problem analysis, program resolution, and customer service engagement;
- does not conduct a rigorous self-evaluation of its staff, operating system, and business model, *prior* to taking on new responsibilities for many clients, to determine if it can successfully manage those responsibilities on behalf of tens of thousands of employees and their dependents;
- does not present its prospective clients with a realistic assessment of which cost-sharing arrangements with HRAs and FSAs can be administered with a relatively high degree of success and those that are likely to pose serious and costly complications;
- does not set up health spending accounts on time;
- does not respond in a timely way or even just follow-up on promises to get back in touch with employees and employers who reached out to them for help.

Thank you for your time. We'll be happy to answer any questions you have.