

A Communication from the Policy Information Exchange

Slice of Pie

A Slice of Pie is an ongoing publication keeping our readers informed about important public policy issues.

It is the mission of the Policy Information Exchange to **educate and inform Pennsylvanians with disabilities, their families and advocates, and the general public, regarding public policy issues and to further the exchange of policy information between the Pennsylvania Developmental Disabilities Council and federal, state, and local policy makers.**

The Policy Information Exchange is funded in part by the Pennsylvania Developmental Disabilities Council.

STATE NEWS

Bills of Interest

Below we summarize some bills of interest to the disability community. **Two bills became law: SB 200 on concussions and student athletes, and SB 458 changing the term “Mental Retardation” to “Intellectual Disability”.**

For more information about these or any other state bills, go to: www.legis.state.pa.us/cfdocs/legis/home/session.cfm. At the top of the page is a box labeled, “Find Legislation By”, choose “Bill #”, then enter the bill number and click on “Go”.

HB 42. Introduced by Representative Matthew Baker (R-Bradford). The bill would **block Pennsylvania from requiring individuals to have health insurance**, which is one of the key features of federal health care reform. The bill was voted out of the House Health Committee on February 7 and the House Appropriations Committee on Oct. 26, 2011 and given first consideration by the full House.

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HB 210. Introduced by Representative Matthew Baker (R-Bradford). The bill amends the **Family Caregiver Support Act** to raise the maximum amounts that can be paid under the act. It passed the House with amendments on October 5 by a unanimous vote and has been referred to the Senate Aging and Youth Committee.

HB 704. Introduced by Representative Bernie O’Neill (R-Bucks). The bill provides for the **special education funding formula**. It was voted out of the House Education Committee and sent to the Appropriations Committee on June 28, 2011. On October 17, the bill was voted out of the Appropriations Committee and sent back to the House Education Committee.

HB 1720. Introduced by Representative Tim Hennessey (R-Chester). The bill provides for a procedure for determining who has **authority in guardianship** proceedings. The bill was voted out of the full House on October 26 and referred to the Senate Aging and Youth Committee.

HB 1936. Introduced by Representative Doug Reichley (R-Lehigh). The bill would require that **disability parking placards** be renewed every three years and that a **\$7.50 fee** be charged for each new application and renewal. Eighteen percent of the fee would go to the shared ride program and the other eighty-two percent would go to the Office of Vocational Rehabilitation for grants to centers for independent living. The bill was introduced and referred to the House Transportation Committee on October 26, 2011.

SB 200. Introduced by Senator Patrick Browne (R-Lehigh). It **establishes standards for managing concussions and traumatic brain injuries to student athletes**. The bill passed both chambers and was signed by the Governor on November 9, 2011 becoming Act 101 of 2011.

SB 397. Introduced by Senator Mary Jo White (R-Venango). This is the current session’s version of legislation supported by the advocacy community which would establish procedures for **prohibiting the imposition of the death sentence in cases of intellectual disabilities** (mental retardation). SB 397 was voted out of the Senate on Oct. 18, 2011 by a vote of 43-7. The bill has been referred to the House Judiciary Committee.

SB 458. Introduced by Senator Andrew Dinniman (D-Chester). The bill would amend the Mental Health and Mental Retardation Act to **change the term “mental retardation” to “intellectual disability”**. It was approved by the Governor on Nov. 22, 2011 as **Act 105 of 2011**.

November Elections

Democrat David Wecht, an Allegheny Court judge, defeated Republican attorney Vic Stabile, for a seat on the Superior Court, an intermediate state court that hears civil and criminal appeals. Republican Anne Covey, of Bucks County, defeated Democrat Kathryn Boockvar for the Commonwealth Court. Commonwealth Court hears legal matters involving state and local government and regulatory agencies.

Six State House members were elected to local offices:

- Representative Josh Shapiro, (D-Montgomery) elected as part of the first team of Democratic majority Commissioners in Montgomery County;
- Chelsa Wagner, (D-Allegheny) elected to the post of Allegheny County Controller;
- Doug Reichley, (R-Lehigh) elected to the Court of Common Pleas;
- Jewell Williams, (D-Philadelphia) elected as Philadelphia Sheriff;
- Denny O'Brien, (R- Philadelphia) and Kenyatta Johnson, (D-Philadelphia), both elected to Philadelphia's City Council.

O'Brien, former House Speaker, was quoted as saying that he is looking forward to sitting on Philadelphia City Council, which will give him more of a voice on issues he has championed for years: children with disabilities, autism and research in the disability community. He plans to bring universities and health centers together in an "inclusive and collaborative nature" to "reinvent the classroom for kids who learn differently. Philadelphia will be the first autism-friendly city on the planet," he said. Also, shortly after the election, State Senator Jeff Piccola (R-Dauphin) announced his intention to retire at end of 2012 and not seek re-election.

ODP Rates and Policies

The Office of Developmental Programs (ODP) has issued rates for services provided in their community programs, effective November 15, 2011. For many providers, the rates are a cut in their payments and may affect their ability to provide services in the future. The fee schedule rates for participant directed services, agency with choice, and supports coordination have also been issued. In addition, recent policy

changes in the residential programs have caused concern among stakeholders about system capacity and long term stability.

ODP Waivers

This Office of Developmental Programs (ODP) is requesting a 5 year Waiver Renewal for both the Consolidated and Person/Family Direct Support (P/FDS) Waivers from the Centers for Medicare and Medicaid Services (CMS). ODP's goal is to submit the waiver renewals to CMS by December 23, 2011.

OMHSAS

The Office of Mental Health and Substance Abuse issued a bulletin, Administrative Investigations, on October 20, 2011, effective October 30, 2011. The Bulletin provides a uniform policy and procedure for the definition, reporting and investigation of allegations of consumer abuse in state hospitals. The policy assures the involvement of outside advocates, communication of the outcome of the investigation to the individual consumer and reporting to other authorities, as appropriate. Search for Bulletin OMHSAS-11-08 at <http://services.dpw.state.pa.us/olddpw/bulletinsearch.aspx>.

Treatment in Prisons

The PA Department of Corrections has been awarded two new federal grants totaling more than \$600,000. The first is a Second Chance Act Grant that will provide treatment and recovery services over a two year period for female offenders with mental health and substance abuse issues at Muncy State Correctional Institution. The second is a National

Institute of Justice grant that will pay for criminal justice research within the state prison system for one year. To read the September 29, 2011 press release on the grants, go to www.state.pa.us/portal/server.pt/community/media/3013/home.

System of Care Grant

Pennsylvania is one of 19 states that will receive a System of Care Expansion Planning Grant from the federal Substance Abuse and Mental Health Services Administration. The grant will be used by the Office of Mental Health and Substance Abuse Services to improve how services are delivered to children with serious emotional disabilities and their families. The grant is for \$796,148 for one year and will build on existing efforts of the System of Care Partnership. For information about the Partnership, see the September 2011 PA CASSP Newsletter at www.parecovery.org/services_SoC.shtml. To read the September 22, 2011 press release on the grant, go to www.state.pa.us/portal/server.pt/community/media/3013/home.

OLTL

The Office of Long Term Living (OLTL) has issued four new Bulletins which can be viewed at: <http://services.dpw.state.pa.us/olddpw/bulletinsearch.aspx>

- **Program Fraud & Financial Abuse** in Office of Long Term Living MA Home and Community-Based Service (HCBS) Programs (11-04) was issued on August 8, 2011 and was effective immediately. The bulletin reminds providers of the requirements set forth in state law and the procedures for reporting suspected misutilization, abuse, and prohibited acts.
- **Community Integration Changes**

provided in the MA Home and Community Based Waiver Programs (11-05) was issued on September 29, 2011 and was effective on October 1, 2011. The bulletin relates to changes to the community integration service definition, including limits on community integration services. This change was effective October 1, 2011 for all new participants and will be effective January 1, 2012 for those with current approved Individual Support Plans. Advocates for those with autism in the OBRA waiver, and others, have raised concern about these changes. According to Autism Living and Working, "This redefinition of Community Integration in effect terminates the main service received by adults with autism and other adults from the OBRA waiver and instead offers these adults the 'choice' of essential custodial care in their present setting or placement in an Intermediate Care Facility (institutional placement)."

- **Accessibility Adaptations and Assistive Technology** (11-07) was issued on October 11, 2011 and was effective on that date. The bulletin informs Care Managers/Service Coordinators of their responsibility to provide information about accessibility adaptations and assistive technology to individuals during the service planning process and to document this in the Individual Service Plan.
- **Critical Incident Management Policy** for Office of Long Term Living Home and Community-Based Services Programs (11-06) was issued on October 14, 2011 and was effective on October 11, 2011. The bulletin communicates comprehensive policy on incident management and reporting procedures.

OLTL Rates

The provider community continues to await the enactment of the agreed-upon interim funding arrangement for community services that will be in place during the rate-setting process. OLTL has issued updated service definitions and rates for residential habilitation services and structured day habilitation services for use in the COMMCARE waiver that serves people with traumatic brain injury and the OBRA waiver that serves people with developmental disabilities. The changes are effective on October 1, 2011. The PA Bulletin on these changes is at www.pabulletin.com/secure/data/vol41/41-39/1673.html.

OBRA Waiver

The OBRA waiver that serves individuals with developmental disabilities has been renewed effective July 1, 2011 through June 30, 2016. The waiver remains closed to new consumers. The Office of Long Term Living has submitted an amendment updating required financial information. Information about the OBRA waiver is available at www.portal.state.pa.us/portal/server.pt?open=514&objID=733700&mode=2

COMMCARE Waiver

The COMMCARE waiver serves individuals with traumatic brain injury. An amendment to COMMCARE submitted to Centers for Medicare and Medicaid Services (CMS) to update service definitions and rates for residential habilitation services and structured day habilitation services has been approved. The waiver is still closed to new consumers. The Office of Long Term Living has also submitted an amendment updating required financial information. Information about

the COMMCARE waiver is available at www.portal.state.pa.us/portal/server.pt?open=514&objID=733697&mode=2

Global Work Plan

The Office of Long Term Living (OLTL) has received approval from the Centers for Medicare and Medicaid Services (CMS) for a combined, or global, corrective action plan for all home and community based waiver programs managed by the Office. Many processes and target dates have been coordinated across all programs. The 16 page plan replaces those previously associated with individual waivers, and is found at the bottom of each program's information page. For example, the plan for Attendant Care is at www.portal.state.pa.us/portal/server.pt?open=514&objID=733694&mode=2.

Lifespan Respite Grant

The Department of Aging has issued a grant application that will award three Pennsylvania non-profit agencies with \$5,000 to provide respite care to individuals and families. It is intended to address unmet needs, particularly for emergency situations. The grant funding is made available through a federal Administration on Aging Lifespan Respite Care grant, and will be overseen by an Advisory Council. Funding will be available to the selected agencies on or before March 1, 2012. The deadline for submission is December 30, 2011. Information is posted on the Department of Aging webpage at www.aging.state.pa.us/portal/server.pt/community/department_of_aging_home/18206.

No Paper Bulletins

The Department of Public Welfare has announced (OMAP Bulletin 99-11-08)

that starting on October 27, 2011 it will no longer mail bulletins issued by the Office of Medical Assistance Programs (OMAP) and the Office of Long Term Living (OLTL). Organizations and people interested in receiving the bulletins can register for email updates through a new listserv. Sign up at www.dpw.state.pa.us/provider/index.htm. Or check the website at www.dpw.state.pa.us/publications/bulletinsearch.

HIPAA Changes

Due to changes in federal law, all Medicaid providers who bill for services must use an updated format starting on January 1, 2012. The Office of Medical Assistance has issued a Bulletin (OMAP 99-11-09) reminding providers of the importance of complying with the change in order to ensure payment. The new standards include a diagnosis code requirement which is a significant change from current practice for the home and community based service providers. A listserv provides updates. Sign up for HIPAA email notifications at www.dpw.state.pa.us/provider/index.htm.

State Aging Plan

Every four years, the Pennsylvania Department of Aging (PDA) is required to develop a "State Plan on Aging" in order for the commonwealth to receive federal funds under the Older Americans Act of 1965, as amended in 2006. PDA invited aging and disability groups to the kickoff session on November 2, 2011. The plan is intended to map "the development of a blueprint governing the future path of aging and disability services within Pennsylvania and will reflect the needs expressed by older Pennsylvanians and

persons living with disabilities and also representatives of organizations providing services... The direction of this plan will be dedicated to 1) helping Pennsylvanians age and live well and help Pennsylvania's communities be places to age and live well, 2) a shift in rebalancing efforts from one which debates the allocation of resources between home and community based services and institutional care to an inclusive approach to ensure the right care is delivered in the right setting, at the right intensity, and at the right time." For more information, contact Kevin Hancock at kehancock@pa.gov or 717-772-0203.

Staff Changes

Bonnie Rose: Deputy Secretary for the Office of Long Term Living. She has served in various positions in the Medical Assistance and Long Term Care fields including, most recently, as the Bureau Director for Provider Support in the Office of Long Term Living.

Blaine Smith: Deputy Secretary for the Office of Mental Health and Substance Abuse Services. He was the Executive Director for Central Pennsylvania Behavioral Health Collaborative.

Kevin Hancock: Director, Office of Community Services and Advocacy and Chief of Staff, Pennsylvania Department of Aging.

Former State Representative **Beverly Mackereth: Deputy Secretary for the Office of Children, Youth and Families.** She was Executive Director of the York County Department of Human Services and before that served eight years as the State Representative for the 196th District.

STATE AND NATIONAL NEWS

Reapportionment

The United States Constitution requires that a Census be taken every 10 years. The census is used to redraw district boundaries for **the US House of Representatives**. As a result of the 2010 census, Pennsylvania has 18 members of the House, down from 19 members after the 2000 census. To date legislation has not been introduced to deal with US reapportionment.

The census is also used to redraw State House and Senate districts based on population. Pennsylvania's Legislative Reapportionment Commission is drafting new PA Legislative boundaries. The Commission consists of House Majority Leader Mike Turzai, R-Allegheny; House Minority Leader Frank Dermody, D-Allegheny; Senate Majority Leader Dominic Pileggi, R-Delaware; Senate Minority Leader Jay Costa, D-Allegheny; and former state Superior Court Justice Stephen McEwen (D-Delaware) who was appointed by the state Supreme Court to be chairman of the commission.

On October 31, 2011, the 2011 Legislative Reapportionment Commission approved a preliminary reapportionment plan by a vote of 3-2 (Republicans for and Democrats against) with McEwen casting the tie-breaking vote. A public hearing on exceptions was held on November 18,

2011. The 30 day public comment period ends Nov 30, 2011. A copy of the plan can be found at www.redistricting.state.pa.us. It includes the 1991, current 2001, as well as 2011 preliminary boundaries. To review the maps, readers need to know their districts, which can be found at www.legis.state.pa.us/cfdocs/legis/home/findyourlegislator/#address.

Federal MA Funds

The Federal Medical Assistance Percentage (FMAP) is the federal government's share of state Medical Assistance benefit costs. No state can receive less than 50% or more than 83%. Preliminary estimates for the Federal fiscal year beginning October 1, 2012 indicate that Pennsylvania's FMAP will decrease from 55.07% to 54.28%, a reduction of 0.79%. This reduction in the FMAP is estimated to cause Pennsylvania's Medical Assistance reimbursements to be reduced by approximately \$167.5 million. Because of the difference in state and federal fiscal years, the impact of the FMAP reduction would be approximately \$125 million in state fiscal year 2012-13. According to the Federal Funds Information Service (FFIS), 25 states will see their FMAP reduced in 2013.

PDE Performance

On August 19, the Pennsylvania Department of Education (PDE) announced that the state has earned the highest level possible in meeting requirements under the Individuals with Disabilities Act (IDEA) for FY2009. Pennsylvania has earned this determination four times in the past five years. To read the PDE 2009 Annual Performance Report go to www.portal.state.pa.us/portal/server.pt/community/

[state_performance_plan_annual_performance_report/7481/pa_part_b_state_performance_plan_for_2005-2010/508805.](#)

NATIONAL NEWS

2012 Federal Budget

The President proposed his budget to fund the federal government for October 1, 2011 through September 30, 2012 on February 14, 2011 and an alternative plan on April 13, 2011. Congress has not completed work on the budget. Neither chamber has passed the major appropriations bills that fund most human services. Congress has passed a Continuing Resolution to keep the government operating until an omnibus budget bill is passed. For a chart of the appropriations bills' status, go to <http://thomas.loc.gov/home/approp/app12.html>

Deficit Reduction

In early August, a bill took effect that raised the debt ceiling so that the US can continue to borrow money to pay the nation's bills. The bill includes substantial spending cuts, though not to Medicaid, Medicare or Social Security. A "Super Committee," made up of representatives of both parties and both chambers is charged with making additional debt-reduction recommendations by November 23, 2011 for a Congressional vote by December 23, 2011. Pennsylvania's Senator Pat Toomey is on the committee. On November 21 a statement was released by the Co-chairs

that agreement had not been reached. In that case, the legislation calls for some automatic cuts (known as "sequestration") up to \$1.2 trillion over the next ten years. Those cuts would be scheduled to take effect in 2013 and would include a 2% reduction to Medicare aimed at slowing its growth. For information about the members, meetings and proposals, go to www.deficitreduction.gov/public/index.cfm

CLASS Act

On October 14, the U.S. Department of Health and Human Services decided to stop the CLASS program. Secretary Sebelius said that she "did not see a viable path forward." Proponents believe that further actuarial analysis should be done, and that hybrid models should be considered. Advocacy groups which support the program have urged that it go forward, citing the importance of the long term supports and services to people with disabilities and seniors. They are fighting efforts to repeal that part of the law. To read Secretary Sebelius' blog explaining recent actions on the CLASS Act, go to www.healthcare.gov/blog/2011/10/class10142011.html. The full report to Congress is at <http://aspe.hhs.gov/daltcp/reports/2011/class/index.shtml>.

Combating Autism Act

On September 30, 2011, President Obama signed into law, the "Combating Autism Reauthorization Act of 2011" (H.R. 2005, now PL 112-32). The Act reauthorizes the Combating Autism Act of 2006 that established funding for several programs and government support for autism research, screening, intervention, and education. Read the bill at [Page 8](http://thomas.</p></div><div data-bbox=)

loc.gov/cgi-bin/bdquery/D?d112:1:./temp/~bdfmCp:@@L&summ2=m&|/home/LegislativeData.php and view the autism resource page at www.hhs.gov/autism.

Health Care Reform

The US Supreme Court has agreed to hear a challenge by 26 states to the 2010 health care reform law, the Patient Protection and Affordable Care Act (ACA). The Court agreed to hear one of several appeals which have been filed—one from the 11th Circuit Court of Appeals in Atlanta. The United States Court of Appeals for the District of Columbia and the 6th Circuit Court of Appeal upheld the constitutionality of the ACA. The 11th Circuit Court of Appeals held the ACA's individual mandate to be unconstitutional, but able to be separated from the rest of the law. The Supreme Court decision will likely come in late June. The central issue is whether the requirement that people buy health insurance (the individual mandate) is constitutional. The Court will decide whether the individual mandate is constitutional and if it is not, how much of the rest of the law can stand. For information about how the ACA affects people with disabilities, go to www.thearc.org/page.aspx?pid=3044.

Housing Rights

The U.S. Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity has issued guidance (Information Bulletin # 340) to its regional and field offices about enforcement of the Americans with Disabilities Act ADA, Section 504 and the Olmstead decision. HUD is prioritizing help for people with disabilities transitioning out of institutions and into community-

based settings. The guidance includes strategies to ensure that public housing authorities let people in institutions and their advocates know about the availability of housing vouchers. For a description of disability rights in housing, go to http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/inhousing.

Train Access

In late September, the Department of Transportation published the final rule amending its Americans with Disabilities Act (ADA) regulations to require intercity, commuter, and high-speed passenger railroads to ensure that passengers with disabilities at new and renovated station platforms can get on and off any accessible car of the train. The Final Rule is available at www.fta.dot.gov/documents/2011-23576.pdf.

RESOURCES

Performance Report

A website on how states are doing in providing services, "Rising Expectations: A State Scorecard on Long-Term Services and Supports for Older Adults, People with Physical Disabilities, and Family Caregivers," is at www.longtermscorecard.org. Pennsylvania's overall ranking is 39.

Documentary

The Public Broadcasting System (PBS) is premiering a documentary film about the history of the struggle for equal rights for people with disabilities. The PBS website has an Interactive Timeline of the Disability Rights Movement, a talk back section, and footage from the film. The website is www.

pbs.org/independentlens/lives-worth-living.

Money Follows the Person

Mathematica has issued a new report on Money Follows the Person. It identifies key factors to successful transition. The report cites lack of affordable, accessible housing as the single greatest barrier to transitions. The report also identifies strategies states use to transition and maintain participants successfully in the community. See www.mathematica-mpr.com/publications/pdfs/health/MFPfieldrpt8.pdf.

Rebalancing

A new report, "Rebalancing Long-Term Services and Supports: Progress to Date and a Research Agenda for the Future," discusses progress in rebalancing Medicaid long-term services and supports spending, how the Affordable Care Act can support states' continued efforts to rebalance LTSS and opportunities for future research to support continued system transformation. It can be viewed at www.hcbs.org/moreInfo.php/nb/doc/3673

Direct Care Workers

The Paraprofessional Healthcare Institute (PHI) has released "Comprehensive State-By-State Data on the Direct Care Workforce." Go to www.hcbs.org/moreInfo.php/nb/doc/3665.

Transition Report

The U.S. Department of Education has released "The Post-High School Outcomes of Young Adults with Disabilities up to 6 Years After High School" View the full report at <http://ies.ed.gov/ncser/pubs/20113004>.

Disability Policy

The National Council on Disability (NCD) issued a report, "National Disability Policy: A Progress Report." To view the report, go to www.ncd.gov/progress_reports/Oct312011.

MA Cuts

The Kaiser Family Foundation's Commission on Medicaid and the Uninsured issued its annual survey of state Medicaid budgets. Go to www.kff.org/medicaid/8248.cfm.

IDEA Video

On the 35th anniversary of the passage of the Individuals with Disabilities Education Act, the US Department of Education has produced a video, "Celebrating 35 Years of IDEA," available at <http://youtu.be/DUn6luZQaXE>.

Segregated Work

The National Disabilities Rights Network (NDRN) has published, "Segregated & Exploited: The Failure of the Disability Service System to Provide Quality Work." It's available at www.ndrn.org/images/Documents/Resources/Publications/Reports/Segregated-and-Exploited.pdf.

Employment

The Centers for Medicare and Medicaid Services (CMS) have issued an Informational Bulletin on employment which emphasizes the importance of competitive work for people with disabilities and highlights its goal to promote integrated employment options through the waiver program. To view the Bulletin, go to www.apse.org/docs/employment_informational_bulletin.pdf.

Contact PIE

Contact the PIE Team with any questions, comments, suggestions, or information to share at PIE, c/o The Arc of Pennsylvania, 101 South Second Street, Suite 8, Harrisburg, PA 17101, by email at pie@thearcpa.org or by phone at 800-692-7258.

- * *A Slice of Pie* is available by email and contains hyperlinks for ease of accessing websites and internet documents and resources.
- * PIE Alerts, PIE Information, and PIE Job Postings are available by email to keep people informed about disability issues between newsletters.
- * Sign up for *A Slice of Pie* or PIE electronic messages by phone at 800-692-7258 or by emailing pie@thearcpa.org.
- * Individuals who already get *A Slice of Pie* and/or PIE electronic messages can make changes at any time by clicking "Update Profile/Email Address" at the end of any PIE email message.
- * *A Slice of Pie* is available at the Developmental Disabilities Council website www.paddc.org, by clicking on "Publications" and "Slice of Pie". Archived editions can also be found there.
- * *A Slice of Pie* is available in alternate format upon request.
- * The PIE office will download, copy, and mail information mentioned in *A Slice of Pie* upon request.

The PIE Team

CONSULTANTS:

Theotis Braddy

Joan W. Martin

Vini Portzline

Terry Roth

THE ARC OF PENNSYLVANIA PIE STAFF:

Gwen Adams

Maureen Cronin

Todd Dickinson

Maureen Westcott

A Slice of Pie

Policy Information Exchange
c/o The Arc of Pennsylvania
Suite 8 - Executive House
101 South Second Street
Harrisburg, Pennsylvania 17101

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Change of Information?

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by phone 800-692-7258
or by email to pie@thearcpa.org.
Thank you.