



Civil Money Penalty  
Reinvestment Network

## Elevate Care

Thanks for joining us!

Please sign-in using the chat box:

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Civil Money Penalty  
Reinvestment Network

## Elevate Care

A national network to share  
experiences, challenges, and successes  
with the reinvestment of  
CMP funds to  
improve care in nursing homes.



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## Agenda

Roll Call

Ombudsman Specialist: Louise Ryan

Networking and Updates

Wrap-up

Materials are online at

**CMP.health.ok.gov**

Navigate on the left panel to "National CMP Reinvestment Network"

**tn.gov/health**

Search for "Civil Monetary Penalty" and select Nursing Home Civil Monetary Penalty (CMP) Quality Improvement Program. Select "National CMP Reinvestment Network"



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## Roll Call by State

- Please have one person from your state or territory respond as each state is called
- All lines will be unmuted during this time

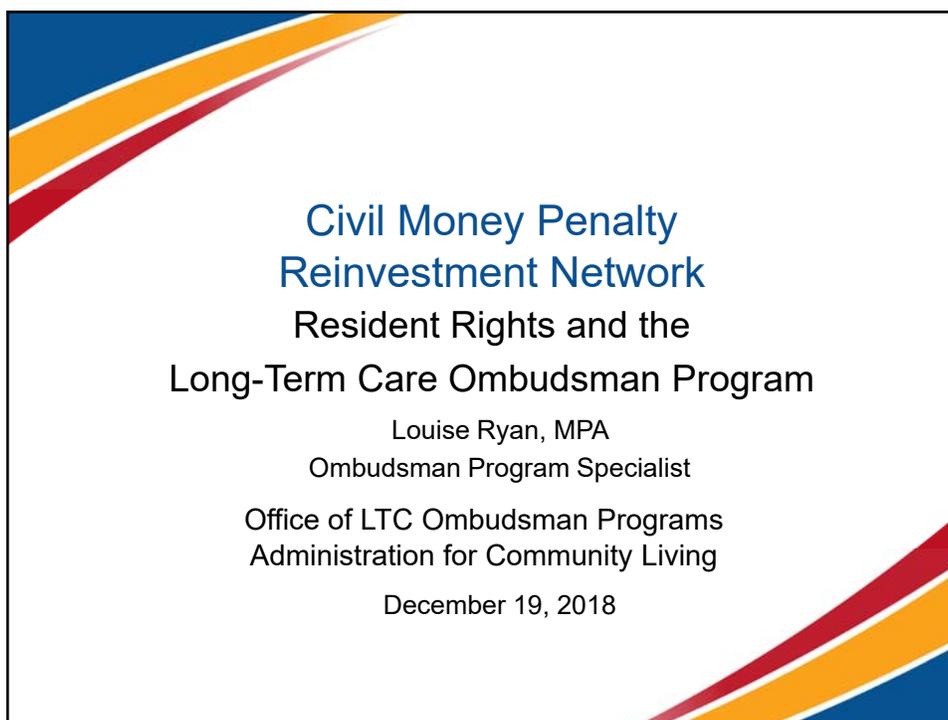
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## ACL Mission

Maximize the independence, well-being, and health of older adults, people with disabilities across the lifespan, and their families and caregivers.

## ACL Vision

All people, regardless of age and disability, live with dignity, make their own choices, and participate fully in society.



## Administration for Community Living

An operating division within the Department of Health and Human Services formed in April 2012

- Administration on Aging (administers the Older Americans Act)
- Administration on Disabilities, which includes the DD Councils and Protection & Advocacy Systems
- National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR)
- Center for Integrated Programs
- Center for Management and Budget
- Center for Policy and Evaluation
- Office of the Administrator
  - Includes 10 Regional Support Centers

## ACL/AoA Administers the Older Americans Act (OAA)

### OAA authorizes and funds grants to States

- State units on aging, including the LTC Ombudsman program
- “Aging network” leverages state, local, and other funds
  - Area agencies on aging
  - Aging services providers

### Providing social, non-Medicaid HCBS, and advocacy services, including:

- Options counseling/information and assistance
- In-home services, Caregiver support
- Nutrition services (congregate and home-delivered meals)
- Elder rights services, including the Long-Term Care Ombudsman Program
- Senior centers



## ACL’s Office of Long-Term Care Ombudsman Programs

### • LTC Ombudsman Program operations/oversight via:

- OAA grants to states (include operation of Long-Term Care Ombudsman programs)
- National Ombudsman Reporting System ([www.agid.acl.gov](http://www.agid.acl.gov))
- National Ombudsman Resource Center ([www.ltombudsman.org](http://www.ltombudsman.org)) via cooperative agreement
- Participation in ACL Ombudsman program evaluations (with Office of Performance and Evaluation)
- Coordination with stakeholders

### • Policy related to long-term care facility residents

- Among ACL programs
- Across HHS
- With other federal partners
- With stakeholders

## ACL's Pillars

- ACL, under Administrator Lance Robertson's leadership, have developed what we call the five pillars – key areas of focus that are critically important across both aging and disability.
- Goal - Build actionable plans around the Pillars
  - identify where we can do the greatest good,
  - establish clear objectives, and develop a roadmap for achieving them.
  - A task force is leading this effort.

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## Five Pillars

1. Connecting people to resources
2. Strengthening our networks
3. Expanding employment opportunities
4. Supporting families and caregivers
5. Protecting rights and preventing abuse

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## Long Term Care Ombudsman Program

- Created in 1972 as a demonstration program, today the Ombudsman program operates in all states, the District of Columbia, Puerto Rico and Guam, under the authorization of the OAA.
  - Each state has an Office of the State LTC Ombudsman (Office), headed by a full-time State LTC Ombudsman (Ombudsman) who directs the program statewide.
  - Ombudsmen designate staff and thousands of volunteers as representatives to directly serve residents.
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## Long-Term Care Ombudsman Program

- Older American Act (OAA) requires the State Long-Term Care Ombudsman to:
    - Informally resolve individual LTC resident complaints,
    - Ensure that residents have regular and timely access to ombudsman services; and
    - Recommend changes at the policy/systems level to improve resident life and care.
  - “LTC facilities” are:
    - nursing homes,
    - board and care,
    - assisted living, and
    - similar adult care homes.
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## Strengths of the LTC Ombudsman Model

- Person-centered: focus is on resident's goal and perspective
- Flexibility in working towards resolution
- Resolution at lowest level, often without additional intervention:
  - Can result in quicker outcome for the resident
  - Can avoid need for regulatory or legal involvement
  - Can save public resources
- Engagement of community: use of volunteers and local Ombudsman entities
  - Use of volunteers and/or local Ombudsman entities varies by state
- Residents' individual complaints and interests are translated into systems advocacy and policy-level solutions



## Examples of Ombudsman program activities (FY 2017)

- Completed work on more than 201,000 complaints
  - 73% -- resolved\* to the satisfaction of the resident
- Provided at least quarterly visits to:
  - 68% of nursing homes
  - 30% of assisted living/board and care
- Provided > 402,000 consultations to residents, families and others
- Provided > 127,000 to facility staff
- Resident and family council support – providing technical assistance, training and information to:
  - resident councils (> 21,000 sessions) and
  - family councils (~ 1800 sessions);
- Trained long-term care facility staff (>4400 sessions)
- Participated in facility surveys (> 17,703)



## What types of complaints are most frequent?

### Nursing facilities:

1. Improper eviction or inadequate discharge/planning
2. Unanswered requests for assistance
3. Lack of respect for residents, poor staff attitudes
4. Administration and organization of medications; and
5. Quality of life, specifically resident/roommate conflict



### Assisted living/board and care:

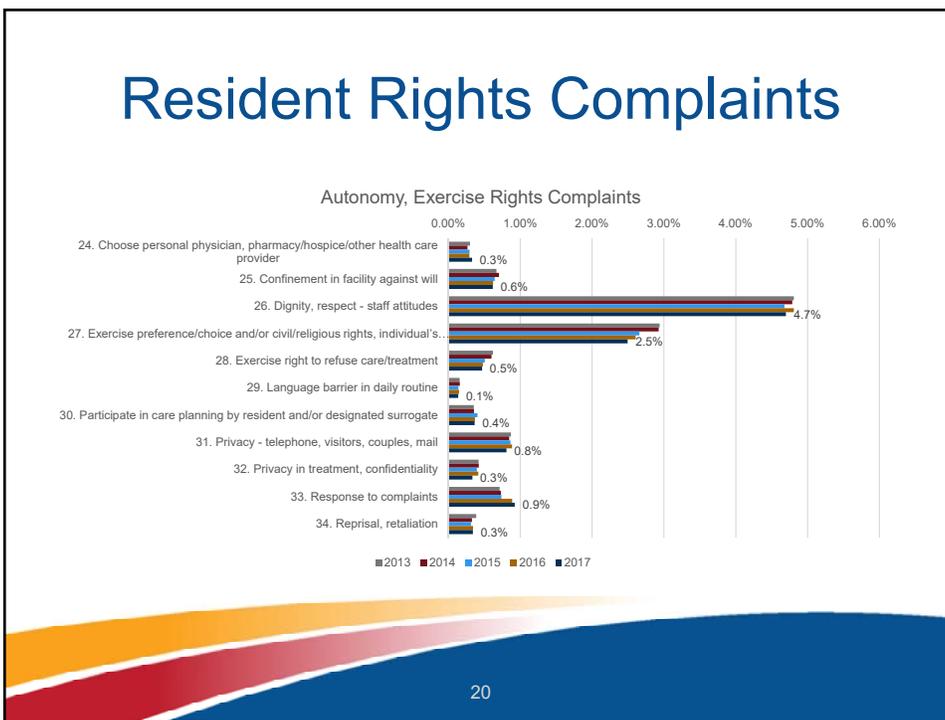
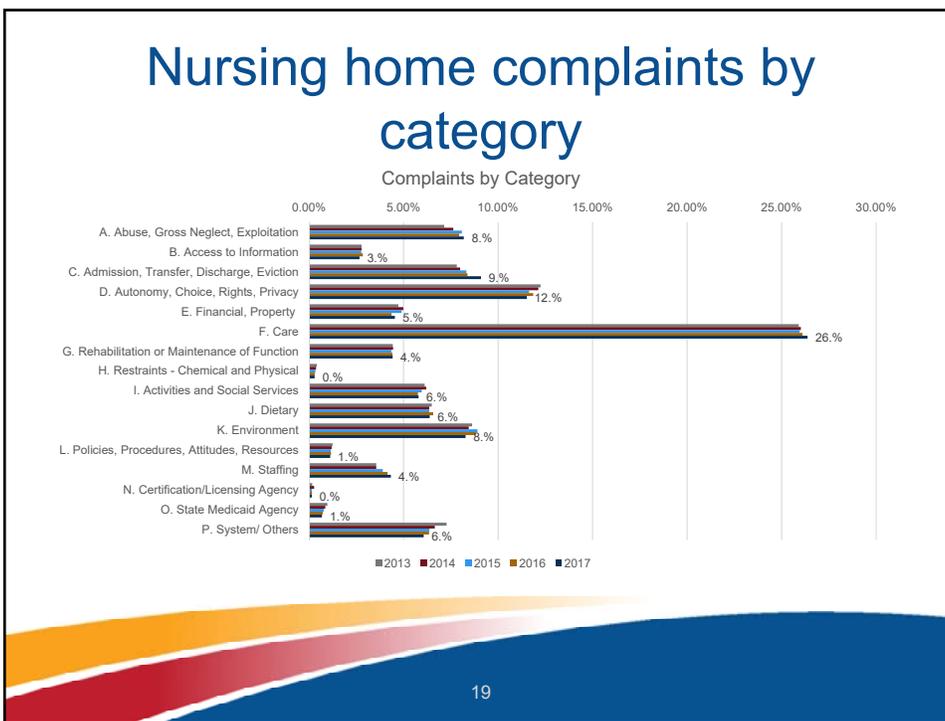
1. Improper eviction or inadequate discharge/planning
2. Administration and organization of medications
3. Quality, quantity, variation and choice of food
4. Lack of respect for residents, poor staff attitudes; and
5. Building or equipment in disrepair or hazardous



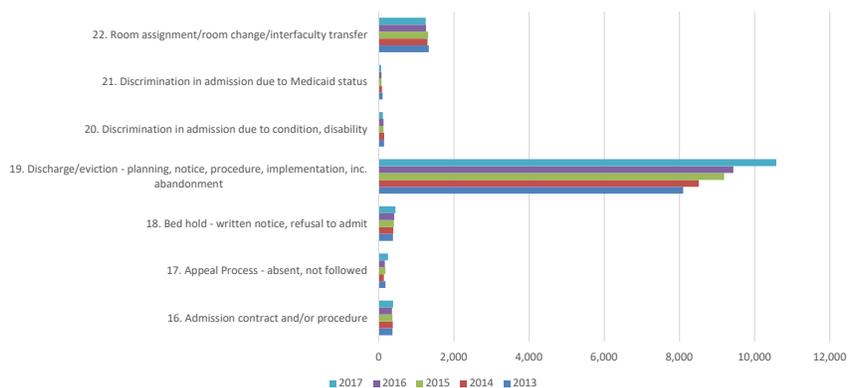
## Complaint Example - George

George, a vigorous 83 year old man, falls from a horse trailer 400 miles from home and sustained serious injuries. While hospitalized he had a stroke increasing his care needs.

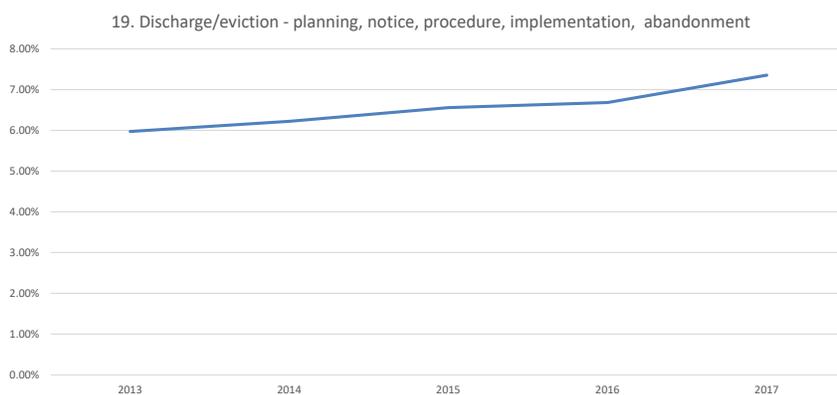
- Challenges: (1) how to pay for care; (2) finding a nursing facility close to home and (3) how to return home.
- State & Local Ombudsmen worked to help George find local nursing home options. He was happy with this as it is close to home and his wife and dog can visit.
- Outcome: Three weeks later, George's wife calls the State Ombudsman to report that George is home. He rallied, is eating pureed food, gaining strength and with support from his doctor returned home with supportive services. **His wife believes the LTC Ombudsman program has saved his life.**



## Admission, Transfer, Discharge, Eviction



## Admission, Transfer, Discharge, Eviction



## Causes of involuntary Nursing Home Evictions

- In addition to increased complexity of resident care, Ombudsman programs report that the number of eviction & discharge complaints is increasing due to:
  - Resident access to sufficient services to support mental health needs; lack of person-centered dementia care.
  - Facility staffing a shortage of both direct care and nursing staff; reliance on agency staffing, which often results in a lack of person-centeredness and consistency in care provided.
  - Lack of appropriate, affordable services and housing in community based settings, resulting in placements that do not meet the resident needs.
  - Lack of understanding of Medicaid financial eligibility requirements by the resident or resident representative, resulting in lack of a payment source for the resident.
  - Financial exploitation - resident representative diverts funds and fails to use the resident's money to pay the facility.

## Resident Experience

- Displacement from community – town, neighborhood and facility community;
- May mean a move miles away from family and friends including separation of couples;
- Fear of being homeless – once labeled a “problem” options become limited;
- “Left with limited options, family members/caregivers may need to ‘settle’ for an available placement in a facility that is equally poorly equipped to provide dementia care but desperate to fill a bed.”

## Individual advocacy

- The Ombudsman program was able to assist a resident to contest an eviction notice. The resident has Alzheimer's and the facility was not providing the individualized care that she needed. The persistence of the volunteer was instrumental in obtaining the needed staffing changes, ensuring shower safety, lowering the dosage of medications which caused sleepiness, and providing assistance at meal times. Her advocacy helped the resident and made a positive impact for all residents living in this facility

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## Barriers to resolution

- One resident was sent to the hospital and was considered as "discharged" by the facility, even though no notice was given. The Ombudsman program views this as a "hospital dump."
- "Inadequate sanctions for facilities that refuse to readmit residents allow some providers to ignore orders from hearing officers to accept the resident back. Some facilities are willing to accept a \$50 daily penalty for each day they refuse to readmit a resident."
- "Facility no longer can meet the resident's needs, or the resident endangers the "safety of other individuals in the facility," an argument we've seen much too frequently. "

## Resolution Strategies

- CMS requirements effective November 2016:
  - “The regulation at 42 CFR 483.15(c)(3)(i) requires, in part, that before a facility transfers or discharges a resident, the facility must “notify the resident and the resident’s representative(s) of the transfer or discharge ...”send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.”

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## Resolution Strategies

- State Ombudsman programs are developing processes to handle the volume of notices:
  - Fax and E-mail option with specific e-mail address, creation of “transfer logs” for facilities to use; on-going technical assistance
- Review and response to notices typically includes a triage approach
- Guidance from CMS has provided some clarification, i.e. facilities do not need to send notice of a voluntary discharge, if a resident transfers to a hospital and is not discharged, the facility can send a list of resident names – this has been helpful
- ACL is reviewing FY 2017 data to see if any changes in discharge/eviction complaints

## Resolution strategies

- Individual complaint work and assistance with administrative hearings
- Creation of task forces
- Proposing/passage of legislation
- Training both hospital social workers and long-term care facility staff on relevant requirements; and
- Training residents and their families on their rights regarding discharge and transitioning out of a long term care facility.

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## Opportunity for Collaboration

- State Survey Agencies and LTC Ombudsman programs are engaged in partnerships on this issue:
  - Joint “Dear Provider Letters”
  - Training
  - Case analysis
  - Development of “Civil Monetary Penalty” projects – guidance from CMS

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## CMS Guidance

- Ref: S&C 18-08-NH
- **CMP Proposals Encouraged** - CMS is encouraging States to consider CMP reinvestment proposals that would utilize funds to prevent improper facility initiated discharges.
- Such proposals may include but are not limited to the following:
  - Projects designed to educate residents and their families on their rights in relation to facility initiated discharge;
  - Projects creating teams of health professionals who could provide immediate support to facilities around the state to reduce risk of harm to self or others when a resident is exhibiting expressions or indications of distress.

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## CMP Projects in Support of Residents

- Recent Examples
  - Texas
  - Ohio
  - Maine
  - Kentucky

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## Texas-Resident Council Toolkit

- Texas – Developed and printed copies of a newly created Resident Council (RC) Toolkit.
  - The toolkit is a resource for the Ombudsman program and resident councils to use for starting, reviving, or improving a council.
  - It is spiral bound and each RC president received a copy.
  - Ombudsman representatives have copies to teach from the manual.
  - It is also electronically available and on the NORC website.
  - Next plan is to translate the toolkit into Spanish and to work on a family council version.

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## Ohio – Staff Engagement Project

- Ohio The SLTCO successfully proposed utilizing CMP monies to implement an ambitious project to stabilize direct care and nursing staff in Ohio's nursing homes. More than 120 nursing homes engaged with designated project ombudsman programs throughout the state to develop strategies to hire, train and retain quality staff while developing leadership among senior staff members. The project proposal <http://medicaid.ohio.gov/Portals/0/Resources/CMP/StaffEngagementProjectProposal.pdf> describes the use of the Pioneer Network's successful Engaging Staff in Individualizing Care toolkit as the cornerstone of this project.
  - Goal is for reduced staff turnover in project nursing homes, increased use of consistent assignment, shift huddles and QAPI committees

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## Maine Partnership to Improve Dementia Care in Nursing Home

- The Partnership implemented a Music and Memory project in 39 nursing homes across the state.
  - Paid for dementia certification training accessed through the Music and Memory Foundation.
  - Provided for the purchase of dedicated (refurbished) laptops to download music on, necessary for the project, for each home.
  - Conference calls with the co-chairs of the Dementia Partnership and participating homes were held every six weeks as a check in for staff.
  - State LTCO was a co-chair of the Partnership

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## Kentucky

- CMP funds to develop an updated residents' rights brochure in partnership with the Kentucky State Survey Agency

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## Resources

- NORS data - <https://agid.acl.gov/>
- ACL & LTC Ombudsman - <https://www.acl.gov/programs/protecting-rights-and-preventing-abuse/long-term-care-ombudsman-program>
- National Ombudsman Resource Center - <http://ltcombudsman.org/>

Louise Ryan

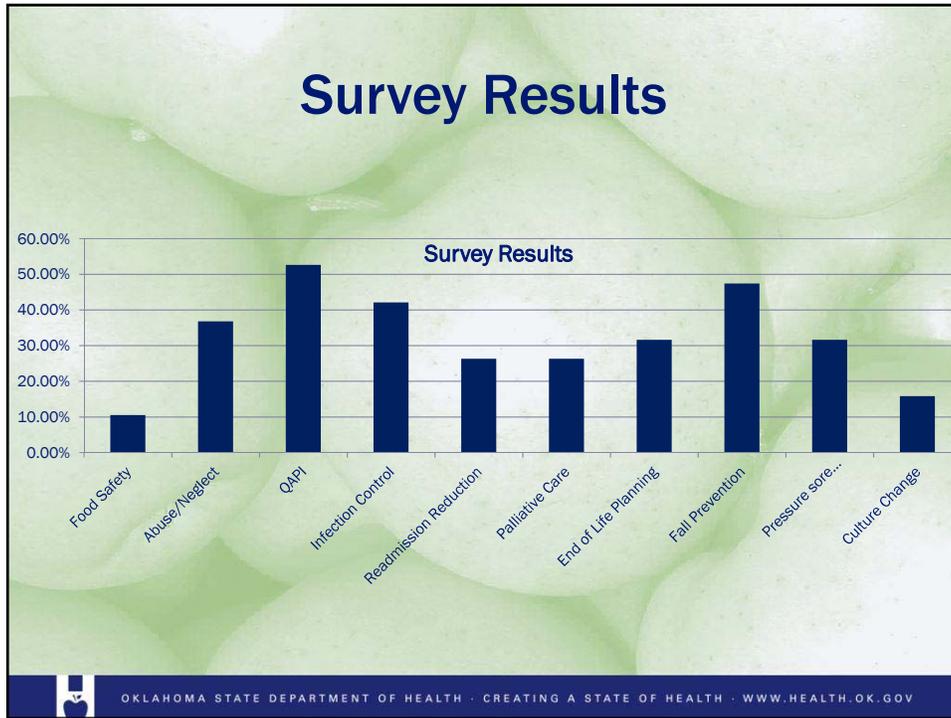
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## Networking and Updates





## Questions?

On this or other presentations?

**Presenters Wanted:**  
Is there a State interested in presenting?

**Send us an email or chat box message**

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**Our next national network call**

Date: March 20, 2019

Time: 2pm CST

**Thanks for joining us!**

Send questions to [CMP@health.ok.gov](mailto:CMP@health.ok.gov)

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