

Quarterly Spending Plan for Implementation of American Rescue Plan Act of 2021, Section 9817

Federal FY 2022 Q1 - Updated

Additional Support for Medicaid Home and Community-Based Services during the COVID-19 Emergency



SEPTEMBER 2021

Table of Contents

Contents

Executive Summary	3
Spending Plan Narrative.....	4
Spending Plan Projection	9
Stakeholder Feedback	10

Executive Summary

Virginia Medicaid moved to a managed long-term services and supports (MLTSS) program in 2017. Since that time, the MLTSS program has grown to approximately 275,000 members. As a major payer for LTSS in Virginia, Medicaid has an opportunity to support the home and community-based services (HCBS) setting through investments in providers, services, and improving member supports.

Virginia's MLTSS program and proposed initiatives align with the Centers for Medicare & Medicaid Services (CMS) goals to expand and enhance the HCBS setting, supporting members choosing to stay in their home and rebalancing the LTSS system from institutional care to community-based care. Through expanded investments and innovation, Virginia aims to strengthen the Commonwealth's HCBS infrastructure, ease transitions from institutions to community-based settings, and avoid unnecessary or unwanted institutionalization.

Virginia proposes to utilize enhanced federal medical assistance percentage (FMAP) for HCBS to increase access to services within the HCBS setting and related supports, invest in technology and infrastructure to the HCBS setting, promote quality of care, and develop the HCBS workforce, including recruitment and retention strategies.

Virginia's General Assembly convened in August to allocate funding from the American Rescue Plan Act of 2021 (ARP). The legislature directed DMAS to use funds to support two workforce initiatives described below. However, additional funds are reserved for further General Assembly approval in January of 2022. Virginia's quarterly updates will reflect any changes from the legislative sessions or Administration directives.

Spending Plan Narrative

Virginia Medicaid includes a MLTSS managed care program, uniquely equipped to cater to the needs of our LTSS population. As a program of approximately 275,000 members, plus members in Fee-for-Service awaiting managed care placement, Virginia Medicaid is a major payer of LTSS in the Commonwealth. Therefore, Medicaid has a unique opportunity to support the HCBS setting through investments in providers, services, and improving member supports.

Using the increased Federal Medical Assistance Percentage (FMAP) for HCBS provided through ARP, Virginia Medicaid aims to promote CMS's goals to expand and enhance the HCBS setting. Additional funds will be invested to strengthen the Commonwealth's HCBS infrastructure, increase provider capacity, and ease transitions from institutions to community-based settings. The increased investment in these critical services will enable Medicaid to better care for some of our most vulnerable members, and allow members to age in place, avoiding unnecessary and potentially unwanted institutionalization. Rebalancing the LTSS system from the institution to community-based services is a priority for our MLTSS program and Agency.

Based on the guidance CMS issued in the State Medicaid Director Letter (#21-033) on May 13, DMAS proposes to invest additional FMAP funds into building provider capacity and addressing COVID-19 related activities and needs. DMAS believes investment in this area will improve equitable access to care, which is essential in continuing to build a high-quality, HCBS system.

DMAS has identified four areas to invest increased FMAP. Per legislative directive, DMAS is currently seeking approval for initiatives targeted to the first area – increasing access to HCBS and support services. Additional initiatives in the other areas are being considered pending General Assembly approval. The four target areas are:

- **Access to HCBS and support services** – Efforts would include initiatives to provide funding to providers who need additional financial support to ensure the impact of COVID does not prevent them from sustaining their services and ensuring access to Medicaid members. Funding could also be targeted to incentivize additional capacity building for underutilized services, such as waiver and HCBS behavioral health supports;
- **Initiatives to promote high quality care** – Examples of such initiatives include efforts to improve care coordination and member experience with HCBS services;
- **Technology and HCBS Infrastructure** – Funds used for these purposes would include capital investments needed for developing and improving interagency systems, such as identifying critical incidents and social needs; and
- **Workforce development:** Initiatives in this area may include items such as trainings for providers, especially for those working with members using HBCS services and requiring additional behavioral health support. Other initiatives would include

recruitment and retention activities to ensure Virginia maintain a high-quality HCBS workforce.

Virginia 2021 Legislative Approval

In Virginia, proposed investment plans are subject to state legislature approval. During the recent General Assembly session, language was added to the state Appropriations Act to reserve authority to appropriate additional federal funds for “current services” provided through ARP for the Administration, while the General Assembly retains authority to expend state funds ([Item 313 LLLLLL](#)).

The state legislature has indicated that Developmental Disability Waiver (DDW) HCBS providers are of particular interest, and it intends to include these providers in any additional opportunities provided by federal funds, such as through ARP ([Item 313 FFFFFFF](#)). DMAS anticipates more specific guidance from the General Assembly, Administration, and stakeholders on intended initiatives to support DDW providers.

The Virginia General Assembly met in Special Session during August 2021 and approved three provisions related to HCBS spending in HB 7001:

1. An across the board 12.5% temporary rate increase for all home and community based services eligible under CMS guidelines as defined in SMD #21-003¹ ;
2. A \$1,000 one-time support payment to personal care providers who provide services during Q4 of Federal Fiscal Year 2021; and
3. A directive to DMAS to present additional strategies to the General Assembly for consideration during the regular 2022 Session beginning in January. These strategies should include options to use HCBS reinvestment dollars to divert individuals who are at risk of institutionalization in state facilities. Additionally, DMAS was directed to coordinate with the Virginia Department of Behavioral Health and Developmental Services, a sister agency to determine how additional funds may be best invested.

Rate Increase for HCBS providers

DMAS proposes to increase rates for designated HCBS providers by 12.5% for one year. A rate increase will strengthen and expand access to HCBS services consisting of select home health, 1915c waiver services, behavioral health community based rehabilitative services authorized under the authority in 42CFR 440.130(d) and select services delivered to train family members and caregivers. DMAS proposes that the providers eligible for rate increases include providers selected in accordance with the guidance in Appendix B of SMD #21-003 to enhance, expand, or strengthen Medicaid HCBS.

¹ See Appendix A for list of affected Service Areas.

Support Payments for Personal Care Attendants

DMAS proposes to provide \$1,000 support payment to all personal care attendants who provided services to Medicaid members between July 1, 2021 and September 30, 2021. This payment is intended to incentivize retention in the personal care workforce and will function as a mechanism to strengthen the personal care services within Medicaid HCBS.

DMAS has submitted draft state plan and waiver amendments to implement items 1 and 2 for approval by the necessary state officials and will submit those for CMS approval as soon as possible. DMAS requests partial approval of this plan for these specific items while the Agency continues to work with our sister agency and General Assembly on additional investments. Further SPA and waiver amendments may be necessary to implement the items contemplated in item 3 once they are approved by the General Assembly in early 2022.

Relevant Language from Virginia's 2021 Appropriations Act:

- Item 313. LLLLLL. Notwithstanding the provisions of Item 479.10 of this Act, the Director of the Department of Planning and Budget shall have the authority to appropriate additional federal Medicaid revenue for current services as provided for in the American Rescue Plan Act of 2021 (ARPA). However, no expansion of Medicaid programs or services shall be implemented with ARPA funds unless specifically authorized by the General Assembly. Any state funds offset by this additional federal revenue shall remain unspent and shall be retained until expenditure of such funds is reauthorized and appropriated by the General Assembly.

- Item 313. FFFFFFFF. It is the intent of the General Assembly that from any additional federal funding that is provided to the Commonwealth to offset the economic impacts from COVID-19 that a portion of such funding shall be set aside and allocated to provide support payments to Medicaid Developmental Disability Waiver providers that have experienced a significant disruption in operations and revenue during the COVID-19 public health emergency (PHE). The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, the Virginia Network of Private Providers, the Virginia Association of Community Rehabilitation Programs (vaACCSES), representatives of different types of waiver providers, and other appropriate stakeholders shall develop criteria to determine the eligibility for and the amount of the support payments. The criteria shall prioritize providers that have received no other state or federal assistance to date during the PHE, other waiver providers that have received some limited assistance from state and federal sources, and waiver providers that are at risk of closing due to the PHE disruption and for which the Commonwealth needs to maintain an adequate provider network such that when the PHE emergency ends there are sufficient providers to meet the service needs of Medicaid members.

Relevant Language from Virginia’s 2021 Appropriations Act, as amended by Special Session II (August 2021):

- 1, E.1. Effective July 1, 2021, through June 30, 2022, the Department of Medical Assistance Services (DMAS) shall temporarily increase the rates by 12.5 percent for all home and community based services eligible under guidance from the Centers for Medicaid and Medicare Services, except that for agency and consumer directed personal care, respite, and companion services in the home and community based services waivers and Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, this temporary rate increase is effective until December 31, 2021². The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.
- 1. E. 2. The Department of Medical Assistance Services (DMAS) shall seek federal authority through the necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to issue one-time COVID-19 support directed payments in the amount of \$1,000 to Agency Directed personal care providers and Consumer Directed Attendants who provided personal care, attendant care, respite care, or companion care services to members who receive services via the EPSDT, Developmental Disability Waivers or the Commonwealth Coordinated Care Plus Waiver program during the first quarter of state fiscal year 2022. DMAS shall have the authority to work with necessary vendors and contractors to determine payment eligibility and the process by which payments will be made. The department shall have the authority to implement necessary changes prior to the completion of any regulatory process undertaken in order to effect such change. Effective October 1, 2021, DMAS shall begin implementing these processes and make payments as soon as administratively feasible.
- 1. E. 3. The Department of Medical Assistance Services (DMAS) shall develop strategies, for consideration by the 2022 General Assembly, to re-invest general fund dollars freed-up by the enhanced federal match on home and community based services (HCBS). These strategies should enhance the Commonwealth's HCBS by creating capacity to meet the growing demand for HCBS and support structural changes needed to strengthen the HCBS systems. In addition, DMAS shall work with the Department of Behavioral Health and Developmental Services and the Centers for Medicaid and Medicare Services to identify any opportunities to use HCBS reinvestment dollars to divert individuals who are at risk of institutionalization in state facilities. DMAS shall prioritize those strategies that do not require significant on-going obligations or rely on rate increases. By October 1, 2021, DMAS shall report these strategies, including six year cost projections, to the Governor,

² These services were already scheduled to receive a 12.5% rate increase under Item 313 SSSS. 3. of the 2021 Appropriations Act approved during Special Session I in the spring. The Special Session II language prevents a duplicate rate increase using state reinvestment dollars.

the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget.

Spending Plan Projection

DMAS estimates that Virginia is eligible for \$273 million in supplemental federal funds prior to reinvestments. This estimate is based on historical HCBS utilization assuming an increased 10% FMAP for the period of April 1, 2021 through March 31, 2022.

Below, DMAS has provided our expected total expenditures for both our fee-for-service population and our members in managed care for HCBS services eligible for the enhanced FMAP, during the referenced time frame (Table 1.) Additionally, DMAS estimated potential gains through reinvestment and the total increase in Federal funding attributable to Section 9817 of the ARP. This estimate assumes DMAS receives federal approval for the two state approved reinvestments listed above and make payments prior to March 31, 2022 and further assumes the federal declaration of a Public Health Emergency 6.2% increased FMAP is still in effect through the end of calendar year 2021. Under these assumptions, DMAS estimates that the supplemental funding would total \$334.6 million in the first year, and total \$658.0 million over the course of the three years (Table 2.) DMAS also offers initial estimates of additional spending by project category and year as outlined in the spending narrative (Table 3.) The out year estimates will be refined after the General Assembly session concludes in the spring of 2022.

Table 1: Funds Attributable to the HCBS FMAP Increase					
	Q3: Apr to Jun	Q4: Jul to Sep	Q1: Oct to Dec	Q2: Jan to Mar	
Fee-For-Service	Q3 FY 2021	Q4 FY 2021	Q1 FY 2022	Q2 FY 2022	Total
Total Computable	\$268.4M	\$268.4M	\$268.4M	\$268.4M	\$1073.6M
Funds attributable to the HCBS FMAP increase	\$26.8M	\$26.8M	\$26.8M	\$26.8M	\$107.4M
Managed Care	Q3 FY 2021	Q4 FY 2021	Q1 FY 2022	Q2 FY 2022	Total
Total Computable	\$414.6M	\$414.6M	\$414.6M	\$414.6M	\$1658.4M
Funds attributable to the HCBS FMAP increase	\$41.5M	\$41.5M	\$41.5M	\$41.5M	\$165.8M
Total	Q3 FY 2021	Q4 FY 2021	Q1 FY 2022	Q2 FY 2022	Total
Total Computable	\$683M	\$683M	\$683M	\$683M	\$2732M
Funds attributable to the HCBS FMAP increase	\$68.3M	\$68.3M	\$68.3M	\$68.3M	\$273.2M

Table 2: Expenditures by Year				
Year of Reinvestment	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Total</u>
Time Period	4/1/21 - 3/31/22	4/1/22 - 3/31/23	4/1/23 - 3/31/24	
State Match Share By Year	39%	30%	30%	100%
State Match by Year	\$106,941,347	\$83,130,027	\$83,130,027	\$273,201,400
FMAP Assumptions				
State's Base FMAP	50.0%	50.0%	50.0%	
FFCRA Increase	6.2%	0.0%	0.0%	
ARPA Increase	10.0%	0.0%	0.0%	
Combined FMAP	66.2%	50.0%	50.0%	
Supplemental Funding				
Reinvested State Match	\$106,941,347	\$83,130,027	\$83,130,027	\$273,201,400
Federal Match	\$209,453,200	\$83,130,000	\$83,130,000	\$375,713,200
Total Supplemental Funding	\$316,394,547	\$166,260,027	\$166,260,027	\$648,914,600

Table 3: Projected Expenditures by Project				
Year of Reinvestment	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Total</u>
Time Period	4/1/21 - 3/31/22	4/1/22 - 3/31/23	4/1/23 - 3/31/24	
Item E.1: 12.5% Rate Increase	\$248,777,947	\$55,508,462	\$0	\$304,286,409
Item E.2: \$1000 Payment for PCAs	\$67,617,000	\$0	\$0	\$67,617,000
Item E.3: To Be Allocated in 2022 General Assembly	\$0	\$110,751,565	\$166,260,027	\$277,011,591
Total Supplemental Funding	\$316,394,947	\$166,260,027	\$166,260,027	\$648,915,000

Stakeholder Feedback

Over the course of the last few months, DMAS has met with internal and external stakeholders to identify potential opportunities for additional investment and to identify the HCBS service providers who are most in need of supports that were not addressed by previous funding opportunities. Additionally, DMAS has issued a Townhall request for feedback to gather formal input from stakeholders and the HCBS community. The Townhall closed on June 30, 2021 and DMAS is currently reviewing feedback.

Contents of Stakeholder Feedback:

- Rate increases and additional recruitment and retention activities may increase provider capacity
- Stakeholders vary within the specific provider types and requested the recruitment/retention activity focus as they continue to lose staff
- DMAS issued a Townhall request for feedback to gather formal stakeholder input and is reviewing input

In an effort to ensure DMAS is supporting our providers and members through this public health emergency, the Department has routinely engaged a variety of HCBS stakeholders, including:

- State partners, such as licensing and oversight entities;
- MCOs; and
- Professional organizations and advocacy groups representing constituents such as member advocacy groups, waiver providers, durable medical equipment, home health, private duty nursing, Programs of All-Inclusive Care for the Elderly, nursing facilities, and behavioral health groups

The stakeholder engagement to date has emphasized the need for additional provider recruitment and retention efforts, and the importance of qualified staff availability. In order to ensure that the entire HCBS community and stakeholders have an opportunity to engage the Department and Commonwealth on potential uses for enhanced federal funds, DMAS is issuing a Townhall request for feedback. This Townhall will request input on opportunities related to 1) improving access to HCBS services and supports, 2) improving quality of care, 3) potential investments in technology and HCBS infrastructure, and 4) workforce development.

Appendix A: Rate Increase Service Areas

The following service areas within the Medicaid program are being included in the proposed temporary 12.5% rate increase:

- Developmental Disability Waivers
- Behavioral Health
- Consumer Directed Services
- Early Intervention
- Private Duty Nursing
- Addiction and Recovery Treatment Services (ARTS)
- Targeted Case Management (TCM)
- Commonwealth Coordinated Care Plus (CCC Plus) Waiver
- Home Health