

### Program Overview

Section 9817 of the American Rescue Plan Act (ARP) authorized an increase in the Federal Medical Assistance Percentage (FMAP) by 10 percentage points for eligible Home & Community Based Services (HCBS) between April 1, 2021, and March 31, 2022.

The Centers for Medicare and Medicaid Services (CMS) issued [guidance](#) on how electing states must implement this Section 9817 HCBS FMAP increase on May 13, 2021. Under the CMS guidance, Virginia must reinvest the additional federal funding in Medicaid HCBS to supplement and not supplant existing state share spending. The law also has a maintenance of effort provision, requiring that the state preserve the amount, duration, and scope of covered HCBS; maintain, and not reduce, HCBS provider payment rates; and not impose stricter eligibility standards for HCBS programs or services until all additional funds are expended.

While the FMAP increase is only available on HCBS services between April 1, 2021, and March 31, 2022, CMS has given states 3 years – until March 31, 2024 –to reinvest the state savings in new or enhanced HCBS activities. Activities that states may undertake to enhance, expand or strengthen Medicaid HCBS include a wide breadth of allowable investments under the CMS guidance. Spending can be aimed at activities to support state COVID-related HCBS needs during the public health emergency or activities aimed at building capacity in the broader Medicaid HCBS system, such as provider networks.

### Public Comment Summary

To obtain recommendations on how to reinvest these dollars into Medicaid HCBS, DMAS initiated a request to collect public comments from June 11<sup>th</sup> until June 30<sup>th</sup>.

DMAS assessed and organized comments into several categories according to the CMS Guidance of May 13, 2021. The guidance described how funds could be used and provided examples of how the funds could be implemented to do the following:

1. Increase access to HCBS services and supports
2. Invest in technology and HCBS infrastructure
3. Improve or support high-quality care and the member experience with HCBS services
4. Develop and build the HCBS workforce, including recruitment and retention strategies

In total, DMAS received 165 comments from a wide range of stakeholders, including members, providers, provider associations, specialty service vendors, Managed Care Organizations (MCOs), the Virginia Board for People with Disabilities and Virginia Association of Community Services Boards. **Comments addressed two main themes; combined retention and recruitment, and access-to-care enhancement constituted 145 of the 165 comments.**

1. Retention/Recruitment: Commenters stated that reimbursement support is needed to assist providers with recruiting/maintaining staff.

- Retention/Recruitment issues were noted in 96 of the 165 comments and impacted seven program areas identified in the comments: private duty nursing, personal care, adult day healthcare, auxiliary grants – Department of Social Services, behavioral health and Addiction and Recovery Treatment Services (ARTS), and all waivers , including Developmental Disabilities (DD) waivers.
  - Retention and Recruitment was noted as a primary factor in the DD waivers (37 of 44 comments), the Commonwealth Coordinated Care Plus Waiver (11 of 32 comments), and Consumer-Directed Personal Care (41 of 47 comments) service areas.
2. Access to Care: Commenters noted that a lack of providers is a major issue and attributed the cause to payment rates.
- Access to Care issues were noted in 49 of the 165 comments and impacted nearly all program areas identified in the comments.
  - Commenters noted Access to Care as a primary factor in all waivers (17 of 32 comments) and in the areas of Psychiatrists, Psychologists, Home Health, Private Duty Nursing, and services for autism. In addition, shortages with ARTS (14 of 17 comments) service areas were prevalent, specifically Medication-Assisted Treatment.
3. Policy Related Requests: Some requests related to changing or extending current policies.
- Consistently allowing parents of minor children and spouses to be reimbursed for services
  - Increasing respite hours
  - Increasing Supplemental Security Income maximum amount

**Finally, commenters consistently stated that DMAS providers have historically had difficulty recruiting and retaining staff. Those providers are now faced with unprecedented challenges due to the pandemic’s impact on the existing workforce in multiple service areas that support and treat the most complex populations in the Medicaid program. Commenters stated that the impacts of COVID-19 have had a compounding impact on member outcomes, and, if left unchecked, the impact could yield potential long-term cost increases for DMAS programs.**