COVID-19 Public Health Emergency Flexibilities, Updated February 16, 2023

The Virginia Medicaid agency implemented a variety of policies in 2020 in response to the needs of members and providers as they confronted the COVID-19 pandemic. The remaining flexibilities are included in the table below, along with information about when those flexibilities will end.

| Flexibility | End Date |
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| **Waivers** | |
| Members who receive less than one service per month will not be discharged from a HCBS waiver. | CMS has provided new guidance that DMAS is evaluating. |
| Allow legally responsible individuals (parents of children under age 18 and spouses) to provide personal care/personal assistance services for reimbursement. | This flexibility will remain active until six months after the end of the PHE (November 10, 2023). |
| Personal care, respite, and companion aides hired by an agency shall be permitted to provide services prior to receiving the standard 40-hour training. | This flexibility will remain active until six months after the end of the PHE (November 10, 2023). |
| Residential providers are permitted to not comply with the HCBS settings requirement at 42 CFR 441.301(c)(4)(vi)(D) that individuals are able to have visitors of their choosing at any time. | This flexibility will end at midnight on May 11, 2023. |
| Allow an extension for reassessments and reevaluations for up to one year past the due date. | This flexibility will end at midnight on May 11, 2023. |
| Add an electronic method of signing off on required documents such as the person-centered service plan. | This flexibility will end at midnight on May 11, 2023. Electronic signatures are continued through other policy. |
| Allow beneficiaries to receive monthly monitoring when services are furnished on a less than monthly basis. | This flexibility will remain active until six months after the end of the PHE (November 10, 2023). |
| The State is responding to the COVID-19 pandemic personnel crisis by authorizing case management entities to provide direct services. Therefore, the case management entity qualifies under 42 CFR 441.301(c)(1)(vi) as the only willing and qualified entity: Current safeguards authorized in the approved waiver will apply to these entities. | This flexibility was in place prior to the PHE and will remain in place unless/until changes are announced at a future date. |
| Reduce quality sampling requirements for waiver services due to limited provider capacity to provide files for desk audit. | This flexibility will end at midnight on May 11, 2023. |

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| The timeframes for the submission of the CMS 372 and the evidentiary package(s)will be extended as needed pursuant to the emergency. In addition, the state may suspend the collection of data for performance measures other than those identified for the Health and Welfare assurance and notes that as a result the data will be unavailable for this time frame in ensuing reports due to the circumstances of the pandemic. | This flexibility will end at midnight on May 11, 2023. |
| **Behavioral Health Services** | |
| Outpatient Psychiatric Services, Therapeutic Day Treatment (TDT), IntensiveIn-Home Services (IIH), Mental Health Skill Building (MHSS) and Psychosocial Rehabilitation (PSR).<br>Face-to-face service requirements will continue to be waived, but documentation shall justify the rationale for the service through a different model of care until otherwise notified. The goals, objectives, and strategies of the plan of care or ISP shall be updated to reflect any change or changes in the individual's progress and treatment needs, including changes impacting the individual related to COVID-19, as well as any newly identified problem. Documentation of this review shall be added to the individual's medical record as evidenced by the dated signatures of the appropriate professional for the service being provided and the individual. | The flexibilities included in the Telehealth Supplements to the Medicaid Manuals will remain in place. Any other flexibilities will end at midnight on May 11, 2023. |
| For youth participating in both TDT and IIH, TDT should not be used in person in the home as this would be a duplication of services. TDT may be provided through telehealth to youth receiving IIH (in person or via telehealth) as long as services are coordinated to avoid duplication and ensure efficacy of the treatment provided. | The flexibilities included in the Telehealth Supplements to the Medicaid Manuals will remain in place. Any other flexibilities will end at midnight on May 11, 2023. |
| During the PHE, TDT, IIH, MHSS and PSR providers may bill for one unit on days when a billable service is provided, even if time spent in billable activities does not reach the time requirements to bill a service unit. This allowance only applies to the first service unit and does not apply to additional time spent in billable activities after the time requirements for the first service unit is reached. Providers shall bill for a maximum of one unit per day if any of the following apply:<br>The provider is only providing services through telephonic communications. If only providing services through telephonic communications, the provider shall bill a maximum of one unit permember per day, regardless of the amount of time of the phone call(s).<br>The provider is delivering services through telephonic communications, telehealth or face-to-face and does not reach a | This flexibility will end at midnight on May 11, 2023. |

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| full unit of time spent in billable activities.<br>The provider is delivering services through any combination of telephonic communications, telehealth and in-person services and does not reach a full unit of time spent in billable activities. | |
| Applied Behavior Analysis –<br>Face-to-face service requirements for family adaptive behavior treatment (97156, 97157) will continue to be waived, but documentation shall justify the rationale for the service through a different model of care until otherwise notified. The goals, objectives, and strategies of the ISP shall be updated to reflect any change or changes in the individual's progress and treatment needs, including changes impacting the individual related to COVID-19, as well as any newly identified problem.<br>Documentation of this review shall be added to the individual's medical record as evidenced by the dated signatures of the LMHP, LMHP-R, LMHP-RP, LMHP-S, LBA, or LABA.<br>In-person assessment requirements continue to be waived and may be conducted through telemedicine but documentation shall justify the rationale for the service through a different model of care until otherwise notified. The definition of telemedicine can be found in the telehealth supplement to the Mental Health Services Manual. | The flexibilities included in the Telehealth Supplements to the Medicaid Manuals will remain in place. Any other flexibilities will end at midnight on May 11, 2023. |
| Applied Behavior Analysis<br>One service unit equals 15 minutes for this level of care. ABA service providers do not have a one unit max limit per day for audio-only communications for CPT codes 97156 and 97157. | This flexibility will end at midnight on May 11, 2023. |
| Independent Assessment Certification and Coordination Team (IACCT) Assessments<br>IACCT Assessments may occur via telehealth or telephone communication. | The flexibilities included in the Telehealth Supplements to the Medicaid Manuals will remain in place. Any other flexibilities will end at midnight on May 11, 2023. |
| Psychiatric Inpatient, Psychiatric Residential Treatment Facility (PRTF) and Therapeutic Group Home (TGH)Levels of Care<br>The requirement for service authorization remains in place. Therapy, assessments, case management, team meetings, and treatment planning may occur via telehealth. The plan of care should be updated to include any change in service delivery as well as any change in goals, objectives, and strategies, including impacts on the individual due to COVID-19. | The flexibilities included in the Telehealth Supplements to the Medicaid Manuals will remain in place. Any other flexibilities will end at midnight on May 11, 2023. |

| Program Integrity | |
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| DMAS will not pursue cases against or terminate Medicaid members who had eligibility errors. | This flexibility will end at midnight on May 11, 2023. |
| **Appeals** | |
| For all appeals filed during the state of emergency, Medicaid members will automatically keep their coverage. | This flexibility will no longer apply for appeals filed after May 11 2023. |
| There will be no financial recovery for continued coverage for appeals filed during the period the emergency. | This flexibility will no longer apply for appeals filed after May 11, 2023. |
| Delay scheduling of fair hearings and issuing fair hearing decisions due to an emergency beyond the state's control. | DMAS has submitted a 1902 (e)(14) request to continue the extended timeframe for decisions to be issued beyond May 11, 2023. CMS is reviewing that request. |
| The state may offer to continue benefits to individuals who are requesting afair hearing if the request comes later than the date of the action under 42 CFR 431.230. | This flexibility will no longer apply for appeals filed after May 11, 2023. |
| Allows applicants and beneficiaries to have more than 90 days to request a fair hearing for eligibility or fee-for-service appeals. | This flexibility will no longer apply for appeals filed after May 11, 2023. |
| Modification of the timeframe under 42 C.F.R. 438.408(f)(2) for enrollees to exercise their appeal rights to allow more than 120 days to request a fair hearing when the initial 120th day deadline for an enrollee occurred during the period of this section 1135 waiver. | This flexibility will no longer apply for appeals filed after May 11, 2023. |