1998 Session

Budget Bill - HB30 (Introduced)

Department of Medical Assistance Services

Item 335	First Year - FY1999	Second Year - FY2000
Medical Assistance Services (Medicaid) (45600)	**$2,417,148,132**	**$2,532,920,472**
Nonmandatory Mental Health and Mental Retardation Services (45607)	$169,860,120	$158,613,844
Nonmandatory Mental Health, Mental Retardation and Substance Abuse Community Based Services (45608)	$169,977,206	$180,187,523
Professional and Institutional Services (45609)	$2,054,409,230	$2,171,208,529
Mental Illness Services (45610)	$22,901,576	$22,910,576
Fund Sources:		
General	$1,164,119,417	$1,222,535,694
Dedicated Special Revenue	$4,701,738	$1,517,245
Federal Trust	$1,248,326,977	$1,308,867,533

Authority: P.L. 89-87, as amended, Title XIX, Social Security Act, Federal Code; Title 32.1, Chapters 9 and 10 Code of Virginia.

A. It is the intent of the General Assembly to develop and cause to be developed appropriate, fiscally responsible methods for addressing the issues related to the cost and funding of long-term care. It is the further intent of the General Assembly to promote home-based and community-based care for individuals who are determined to be in need of nursing facility care.

B.1. The Director of the Department of Medical Assistance Services shall seek the necessary waivers from the United States Department of Health and Human Services to authorize the Commonwealth to cover health care services and delivery systems, as may be permitted by Title XIX of the Social Security Act, which may provide less expensive alternatives to the State Plan for medical assistance.

2. The Director shall promulgate such regulations as may be necessary to implement those programs which may be permitted by Titles XIX and XXI of the Social Security Act, in conformance with all requirements of the Administrative Process Act.

C.1. The appropriation includes $82,263,256 the first year from the general fund and $87,596,864 from the federal trust fund and $76,769,100 the second year from the general fund and $81,844,744 from the federal trust fund for reimbursement to the institutions within the Department of Mental Health, Mental Retardation and Substance Abuse Services. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall be reimbursed for the federal share of general salary scale adjustments approved by the General Assembly.

2. The appropriation includes the first year $42,131,396 from the general fund and $44,863,023 from the federal trust fund, and the second year $44,127,508 from the general fund and $47,045,031 from the federal trust fund for reimbursement to the Department of Mental Health, Mental Retardation and Substance Abuse Services for the Mental Retardation Waiver. The appropriation also includes the first year $40,188,565 from the general fund and $42,794,222 from the federal trust fund and the second year $43,083,253 from the general fund and $45,931,731 from the federal trust fund for reimbursement to the Department of Mental Health, Mental Retardation and Substance Abuse Services for the "State Plan Option" community mental health and mental retardation services.

D. The State Board of Medical Assistance Services shall develop amendments to the State Plan for Medical Assistance and seek the Health Care Financing Administration's approval to provide that:

The State Plan for Medical Assistance shall be amended to include provision of services under a PACE (Program of All-inclusive Care for the Elderly) program of care to eligible Medicaid recipients. This PACE program of services shall be consistent with all requirements of the Balanced Budget Act of 1997, Sections 24802 and 24803, including, but not limited to requirements for (i) recipient eligibility, (ii) provider requirements and payment methodology, (iii) scope of benefits, and (iv) quality assurance. The amendments to the State Plan for Medical Assistance shall become effective in 280 days or less of enactment of this Act.

E. Out of this appropriation, the Department of Medical Assistance Services shall provide coverage of intensive assisted living care to residents of licensed Adult Care Residences who are Auxiliary Grant recipients. Individuals entitled to benefits under this section are not entitled to benefits under Item 337.

F. Out of this appropriation, $50,000 in Special Fund Revenue is appropriated in each year of the biennium to the Department of Medical Assistance Services for the administration of the disbursement of civil money penalties levied against and collected from Medicaid nursing facilities for violations of rules identified during survey and certification as required by federal law and regulation. Based on the nature and seriousness of the deficiency, the Agency or the Health Care Financing Administration may impose a civil money penalty, consistent with the severity of the violations, for the number of days a facility is not in substantial compliance with the facility's Medicaid participation agreement. Civil money penalties collected by the Commonwealth must be applied to the protection of the health or property of residents of nursing facilities found to be deficient. Penalties collected are to be used for (1) the payment of costs incurred by the Commonwealth for relocating residents to other facilities; (2) payment of costs incurred by the Commonwealth related to operation of the facility pending correction of the deficiency or closure of the facility; and (3) reimbursement of residents for personal funds or property lost at a facility as a result of actions by the facility or individuals used by the facility to provide services to residents. These funds are to be administered in accordance with the revised federal regulations and law, 42 CFR 488.400 and the Social Security Act Section 1919(h), for Enforcement of Compliance for Long-Term Care Facilities with Deficiencies. Any Special Fund Revenue received for this purpose, but unexpended at the end of the fiscal year, shall remain in the fund for use in accordance with this provision.

G. If any part, section, subsection, paragraph, clause, or phrase of this item or the application thereof is declared by the United States Department of Health and Human Services or the Health Care Financing Administration to be in conflict with a federal law or regulation, such decisions shall not affect the validity of the remaining portions of this item, which shall remain in force as if this item had passed without the conflicting part, section, subsection, paragraph, clause, or phrase. Further, if the United States Department of Health and Human Services or the Health Care Financing Administration determines that the process for accomplishing the intent of a part, section, subsection, paragraph, clause, or phrase of this item is out of compliance or in conflict with federal law and regulation and recommends another method of accomplishing the same intent, the Director of the Department of Medical Assistance Services, after consultation with the Attorney General, is authorized to pursue the alternative method.

H. Included in this appropriation is $40,788,000 from the general fund and $43,422,000 from nongeneral funds the

first year and $40,753,000 from the general fund and $43,447,000 from nongeneral funds the second year for Medicaid payments for the University of Virginia Medical Center. In the event that additional funding is available through projected balances in the Department of Medical Assistance Services' budget, the cited amounts may be increased.

I. Included in this appropriation is $71,355,000 from the general fund and $75,981,000 from nongeneral funds the first year and $71,311,000 from the general fund and $76,025,000 from nongeneral funds the second year for Medicaid payments for the Medical College of Virginia Hospitals Authority. In the event that additional funding is available through projected balances in the Department of Medical Assistance Services' budget, the cited amounts may be increased.

J. The Department of Medical Assistance Service shall implement one or more managed care pilot programs to improve care coordination for Medicaid recipients infected with HIV/AIDS. The Department shall identify appropriate pilot areas for this voluntary project. The Department shall develop an appropriate capitation methodology for this eligible population. Those HIV/AIDS recipients who are (i) covered by third-party comprehensive health insurance coverage, (ii) in community-based care waivers, (iii) residing in long-term care facilities or (iv) receiving hospice services shall have the option of joining a Medicaid managed care program. In order to implement the pilot, the Department shall promulgate regulations to be effective within 280 days of the enactment of this provision and shall seek any necessary waiver modifications or approvals from HCFA.

K. The Department of Medical Assistance Services shall implement one or more pilot projects, contingent upon approval of the Health Care Financing Administration, which will give recipients who dually possess both Medicaid and Medicare eligibility the option of joining an HMO that will pool an appropriate capitation payment received from both Medicaid and Medicare sources. The Department shall contract on a sole source basis with selected health plans to develop and implement the project if the Department determines, in its sole discretion, that the use of sole source contracting is in the Department's best interest. Any health plan that has received compensation from the Department for its services in developing the RFP or contract or in connection with the development of the project shall be eligible to submit a proposal to the Department to provide HMO services for the project, if the Department determines, in its sole discretion, that receiving a proposal from any such health plan is in the Department's best interest. The Department shall identify the appropriate pilot area(s) for the project. The project shall include the provision of long-term care services in addition to the services provided in the existing Medicaid HMO programs with the goal of improving care coordination to individuals with dual eligibility. In order to implement the project, the Department shall promulgate regulations to be effective within 280 days of the enactment of this provision.

L. The Department of Medical Assistance Services shall amend its regulations, effective July 1, 1998, to eliminate language that explicitly adopts the requirements of the provisions of federal law that were Section 1902(a)(13)(A) and (F) of Title XIX (42 U.S.C. 1396a(a)(13)(A) and (F)), until they were repealed by Section 4711(a) of the Balanced Budget Act of 1997.

M. The Department of Medical Assistance Services shall implement an enrollment period of 12 months for all Medicaid recipients enrolled in Medallion II HMOs, consistent with the provisions of the Balanced Budget Act of 1997. The enrollment period shall not be used to extend coverage for those recipients who lose eligibility during the enrollment period. In order to implement the project, the Department shall promulgate regulations to be effective within 280 days of the enactment of this provision.

N. The Department shall establish a program to more effectively manage those Medicaid recipients who receive the highest cost care. To implement the program, the Department shall establish uniform criteria for the program, including criteria for the high cost recipients, providers and reimbursement, service limits, assessment and authorization limits, utilization review, quality assessment, appeals and other such criteria as may be deemed necessary to define the program. The Department shall seek any necessary approval from the United States Health Care Financing Administration, and shall promulgate such regulations as may be deemed necessary to implement

this program.

O. The Office of the Attorney General, on behalf of the Department of Medical Assistance Services, shall pursue whatever legal actions are appropriate, if any, to obtain relief from the court's decision in the Rehabilitation Association of Virginia, Incorporated, v. Kozlowski 42 F.3D 1444 (4th Cir. 1994). As authorized by section 4714 of the Balanced Budget Act of 1997 and section 1902 (a) (10) of the Social Security Act, or other applicable federal law, payments for Medicare Part A and Part B coinsurance for Medicaid covered services for all dual eligibles, including but not limited to Qualified Medicare Beneficiaries, shall be calculated based on the Medicaid rate. The State Plan and all necessary regulations shall be amended accordingly and shall be effective within 280 days of enactment of this provision.

P. Out of this appropriation, $2,061,000 the first year and $2,061,000 the second year from the general fund is provided as a supplement to qualified nursing homes for accepting mentally ill geriatric patients from state hospitals.