2001 Special Session I

Budget Bill - HB3 (Introduced)

Department of Medical Assistance Services

Item 319	First Year - FY2001	Second Year - FY2002
Medical Assistance Services (Medicaid) (45600)	~~$2,870,084,601~~ ***$3,001,160,508***	~~$2,934,684,223~~ ***$3,111,942,236***
Nonmandatory Mental Health and Mental Retardation Services (45607)	$221,351,563	~~$196,881,049~~ *$223,093,639*
Nonmandatory Mental Health, Mental Retardation and Substance Abuse Community Based Services (45608)	~~$223,865,293~~ *$237,849,360*	~~$223,920,680~~ *$265,351,647*
Professional and Institutional Services (45609)	~~$2,400,409,040~~ *$2,514,853,716*	~~$2,478,601,593~~ *$2,587,371,758*
Mental Illness Services (45610)	~~$24,458,705~~ *$27,105,869*	~~$35,280,901~~ *$36,125,192*
Fund Sources:		
General	~~$1,384,150,314~~ *$1,446,704,681*	~~$1,413,835,983~~ *$1,505,537,049*
Dedicated Special Revenue	$1,517,245	$1,517,245
Federal Trust	~~$1,484,417,042~~ *$1,552,938,582*	~~$1,519,330,995~~ *$1,604,887,942*

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

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 $107,051,282 the first year from the general fund and $114,300,281 from the federal trust fund and ~~$95,266,282~~ *$107,966,282* the second year from the general fund and ~~$101,614,767~~ *$115,127,357* 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 ~~$65,307,167~~ *$80,710,095* from the general fund and ~~$69,543,142~~ *$86,772,983* from the federal trust fund, and the second year ~~$65,309,487~~ *$91,231,633* from the general fund and ~~$69,596,209~~ *$97,095,948* 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 ~~$43,083,253~~ *$33,909,511* from the general fund and ~~$45,931,731~~ *$36,456,771* from the federal trust fund and the second year ~~$43,083,253~~ *$37,307,033* from the general fund and ~~$45,931,731~~ *$39,717,033* 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. 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 321.

E. 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 § 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.

F. 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.

G. Included in this appropriation is ~~$43,403,000~~ *$45,295,860* from the general fund and ~~$46,291,603~~ *$48,291,603* from nongeneral funds the first year and ~~$41,403,000~~ *$45,295,860* from the general fund and ~~$44,141,364~~ *$48,291,603* 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.

H. Included in this appropriation is ~~$85,985,600~~ *$96,985,600* from the general fund and ~~$90,950,400~~ *$102,650,400* from nongeneral funds the first year and ~~$74,985,600~~ *$98,576,192* from the general fund and ~~$79,950,400~~ *$105,050,400* from nongeneral funds the second year for Medicaid payments for the ~~Medical College of Virginia~~

~~Hospitals Authority~~ *Virginia Commonwealth University Health System 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.

I. ~~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 § 1902(a)(13)(A) and (F) of Title XIX (42 U.S.C. § 1396a(a)(13)(A) and (F)), until they were repealed by § 4711(a) of the Balanced Budget Act of 1997.~~

J. The Department of Medical Assistance Services shall seek amendments to the MEDALLION and MEDALLION II waivers to allow the Department to modify the process by which Medicaid recipients are enrolled into managed care programs. The Department shall modify the requirement that all Medicaid recipients be allowed at least 45 days to select a managed care provider. Upon approval from the Health Care Financing Administration, the Department shall promulgate appropriate regulations pursuant to the Administrative Process Act, § 9-6.14:4.1 et seq., Code of Virginia, to revise the MEDALLION and MEDALLION II regulations to comply with waiver changes. The Department shall implement the necessary regulatory changes consistent with the federal approval of waiver changes.

K. 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.

L. The Department of Medical Assistance Services and the Department of Health shall work with representatives of the dental community: to expand the availability and delivery of dental services to pediatric Medicaid recipients; to streamline the administrative processes; and to remove impediments to the efficient delivery of dental services and reimbursement thereof. The Department of Medical Assistance Services shall report its efforts to expand dental services to the Chairmen of the House Appropriations and Senate Finance Committees by December 15 each year.

M. The Department of Medical Assistance Services shall implement continued enhancements to the prospective drug utilization review (pro-DUR) program. The Department shall continue (i) the implementation of a disease state management program including physicians, pharmacists, and others deemed appropriate by the Department and (ii) the Pharmacy Liaison Committee. The Department shall continue to work with the Pharmacy Liaison Committee and the Prior Authorization Advisory Committee to implement the disease state management program and such other initiatives for the promotion of cost-effective services delivery as may be appropriate. The Department shall report on the Pharmacy Liaison Committee's activities to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees no later than December 15 each year of the biennium.

N.1. As a condition of this appropriation, the Department shall promulgate regulations to implement Medicaid reimbursement for treatment foster care case management designed to serve children and youth referred by local Comprehensive Services Act teams. The regulations shall address coverage limitations and utilization review.

2. As a condition of this appropriation, the Department shall promulgate regulations to amend the State Plan for Medical Assistance to expand coverage of inpatient psychiatric services under EPSDT to include services in residential treatment facilities. The regulations shall address coverage limitations and utilization review.

3. For purposes of determining eligibility for coverage of treatment foster care and residential treatment services

for children, the Department shall allow referrals either by local family assessment and planning teams or a collaborative, multidisciplinary team approved by the State Executive Council, consistent with § 2.1-755, Code of Virginia.

4. The Department, in cooperation with the State Executive Council, shall provide initial and ongoing training to local Comprehensive Services Act teams on the procedures for use of Medicaid for residential treatment and treatment foster care services, including, but not limited to, procedures for determining eligibility, billing, reimbursement, and related reporting requirements. The Department shall include in this training information on the proper utilization of inpatient and outpatient mental health services as covered by the Medicaid State Plan. The Department shall report annually, by June 30, to the Chairmen of the House Appropriations and Senate Finance Committees on the results of the training program. The report shall include the number of local team representatives attending formal training programs offered by the Department; the number of technical assistance requests responded to by the Department; and the type and amounts of training materials made available to local teams.

O. Out of this appropriation, the Department of Medical Assistance Services shall provide reimbursement for adult day health care services at the rate of $45 per day for providers in Northern Virginia and $41 per day for providers in the rest of the state.

P. Prior to implementation, the Department of Medical Assistance Services shall report to the Joint Commission on Health Care's Long-Term Care Subcommittee on the status of a revised nursing facility payment system. The payment system shall continue to provide reimbursement for the Specialized Care Program as in effect on February 15, 1999, until such time as appropriate regulations become effective pursuant to the Administrative Process Act. The report shall also address other long-term care financing issues and strategies, including, but not limited to, the extent to which patient acuity is considered under the payment system, waivers, and initiatives for better serving dual eligible beneficiaries.

Q. The Department of Medical Assistance Services shall amend the Home and Community Based Waiver for the Elderly and Disabled to permit the sharing of personal care service hours required by recipients who reside in the same home. Community-based care shall be cost-effective if (i) the cost to Medicaid for the individual who receives community-based care is less than or equal to the average cost to Medicaid for the individuals who would otherwise receive institutional care or (ii) the aggregate cost to Medicaid for the individuals in the same home who share services is equal to or less than the average cost to Medicaid for all recipients in the same home who would otherwise receive institutional care.

R. In accordance with the provisions of § 32.1-325.1:1, Code of Virginia, payment for family planning services shall be contingent upon the approval of the 1115 waiver for extended family planning services by the Health Care Financing Administration. If federal approval for the waiver is granted, payment for these services shall begin no later than three months following the date of approval.

S.1. The Director of the Department of Medical Assistance Services shall convene a workgroup composed of representatives from the Department of Rehabilitative Services; the Department of Mental Health, Mental Retardation and Substance Abuse Services; the Community Services Boards; the Department of Social Services; the Centers for Independent Living; the Disability Services Boards; consumers; families; advocates and public and private providers to develop an Individual and Family Developmental Disabilities Support Waiver which offers flexible individual and family-driven control of services to meet their individualized needs.

2. The waiver proposal shall include a full array of appropriate services to meet the varied needs of persons with developmental disabilities, including persons with autism. In addition, the waiver proposal shall contain eligibility criteria for persons with developmental disabilities to be served, number of persons projected to be served, annual cost projections, types of services and supports offered, and service benefit limits.

T. Contingent upon approval by the Health Care Financing Administration to implement an Individual and Family Developmental Disabilities Support Waiver, the Department of Medical Assistance Services shall promulgate appropriate regulations pursuant to the Administrative Process Act (§ 9-6.14:4.1 et seq.) to implement the Individual and Family Developmental Disabilities Support Waiver effective July 1, 2000. The Department shall implement the necessary regulatory changes consistent with the federal approval of the new waiver.

U. The State Plan for Medical Assistance Services shall be amended pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.), Code of Virginia, to add coverage of medical nutrition therapy services effective July 1, 2000. In conjunction with coverage of medical nutrition services, the Department of Medical Assistance Services shall implement a program to preauthorize the use of such services where appropriate.

V. The Board of Medical Assistance Services is authorized to adopt emergency regulations to be effective on July 1, 2000, to implement a revised payment system for nursing facility capital costs.

W. It is the intent of the General Assembly that the medically needy income limits for the Medicaid program are adjusted annually to account for changes in the Consumer Price Index.

X. The State Board for Medical Assistance Services shall develop amendments to the State Plan for Medical Assistance and seek the Health Care Financing Administration's approval to increase the income limit for the medically needy by the annual percentage change in the Consumer Price Index, as allowed by federal law, to be effective July 1, 2001, and annually hereafter.

Y.1. The Department of Medical Assistance Services shall enter into an agreement with the Department of Mental Health, Mental Retardation and Substance Abuse Services by September 1, 2000, to allow for the administration of the following Medicaid-covered services: community mental health rehabilitation services; targeted mental health and mental retardation case management; substance abuse treatment for pregnant and postpartum women; intensive in-home and therapeutic day treatment services for children and adolescents in the Early and Periodic Screening, Diagnosis and Treatment Program; mental retardation home- and community-based waiver services; and any other new or expanded mental health, mental retardation and substance abuse services related to these services that are covered subsequently by the Medicaid program. The agreement shall also specify the Department of Mental Health, Mental Retardation and Substance Abuse Services' responsibility for participation in policy and regulatory development for the above-listed services as described in the report of the Joint Subcommittee Studying the Future Delivery of Publicly Funded Mental Health, Mental Retardation and Substance Abuse Services, subject to the Department of Medical Assistance Services' oversight and approval with respect to compliance with federal law. The Department of Medical Assistance Services shall be responsible for paying claims for the above-listed Medicaid-covered services.

2. The Department of Planning and Budget, in cooperation with the Department of Medical Assistance Services, shall include the above-listed services in its November 15 forecast of Medicaid expenditures, upon which the Governor's budget recommendations will be based, for the current and subsequent two years.

3. Community service boards and behavioral health authorities, to the extent allowable under federal law, shall continue to be the single point of entry into the services system for community mental health rehabilitation services; targeted mental health and mental retardation case management; substance abuse treatment for pregnant and postpartum women; intensive in-home and therapeutic day treatment services for children and adolescents in the Early and Periodic Screening, Diagnosis and Treatment Program; mental retardation waiver services; and any other new or expanded mental health, mental retardation and substance abuse services that are covered subsequently by the Medicaid program.

4. Upon finalization of the agreement by September 1, 2000, the Department shall submit a report to the Chairmen of the House Appropriations and Senate Finance Committees describing the agreement and how it will be implemented by both agencies. The report shall be submitted by September 30, 2000.

Z. The Department of Medical Assistance Services shall report on (i) its actions to facilitate and enroll low-income Medicare beneficiaries as Qualified Medicare Beneficiaries (QMBs), Specified Low-Income Medicare Beneficiaries (SLMBs), and Qualified Individuals (QIs) using data available from federal sources; (ii) the utilization of allowable federal agreements and federal data to increase the number of persons enrolled in these programs; (iii) the feasibility of simplifying administrative forms, processes and practices for QMB, SLMB, and QI enrollment; and (iv) its actions to achieve the U.S. Health Care Financing Administration's target of a four percent annual enrollment increase in the QMB and SLMB programs. The Department shall also include an analysis of the cost for establishing an agreement with the U.S. Health Care Financing Administration to extend the current three-month period for enrolling in Medicare Part A coverage through the QMB program. The Department shall report to the Chairmen of the House Appropriations and Senate Finance Committees and the Joint Commission on Health Care by September 15, 2000.

AA. The Department of Medical Assistance Services shall assess the feasibility and advisability of providing nursing facilities with approved special care units fixed per diem Medicaid payments, equal to the Medicaid reimbursements payments applicable to the care of individuals with traumatic brain injuries at such facilities, for the care of individuals with acquired brain injuries that result from noncongenital causes other than direct trauma, such as cerebrovascular accidents, brain tumors, prolonged seizure activity, anoxia and neurotoxicity. The Department shall report its findings and recommendations to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2000.

BB. Effective July 1, 2000, the Department shall increase reimbursement rates for dental health services by 10 percent.

CC. The Department of Medical Assistance Services shall not require dentists who agree to participate in the delivery of Medicaid pediatric dental care services, or services provided to enrollees in the Children's Medical Security Insurance Plan (CMSIP) or any variation of CMSIP, to also deliver services to subscribers enrolled in commercial plans of the managed care vendor, unless the dentist is a willing participant in the commercial managed care plan.

DD. The Department of Medical Assistance Services, with cooperation from the Department of Mental Health, Mental Retardation, and Substance Abuse Services, the Department of Rehabilitative Services (DRS), and the DRS Employment Services Organization Advisory Committee, consumers, families, advocates, community services boards, and private for-profit and nonprofit community-based rehabilitation providers, shall study policy and administrative changes to the State Plan for Medical Assistance Services to support work-related activities for persons with mental and other developmental disabilities. The Department shall report to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2000, on the study results and recommended changes, including any specific federal barriers to reforming Virginia's Medicaid program to provide maximum support for persons with mental and other developmental disabilities in obtaining and retaining employment.

EE.1. Effective July 1, 2000, the Department of Medical Assistance Services (DMAS) shall make a one-time, lump sum payment of $12,243,204 to eligible Virginia hospitals participating in the Medicaid program to mitigate the estimated impact of the re-based Diagnosis Related Groupings rates, effective July 1, 1998, on each individual hospital for services provided between July 1, 1998, through December 31, 1999. The payment shall be made in two equal, semiannual amounts during fiscal year 2001. For purposes of distribution, each hospital's share of the total amount shall be determined as follows:

a. DMAS shall determine the total operating payments due each hospital for inpatient hospital services provided from January 1, 2000, through June 30, 2000, using hospital claims data from discharges in that period.

b. DMAS shall determine the total operating payments that would have been due each hospital for the same

services, had the inpatient hospital rates and weights applicable in fiscal year 1998 been continued with inflation for fiscal years 1999 and 2000.

c. The difference between the two values calculated in (i) and (ii) above, summed across all hospitals, is the "statewide difference." Each hospital-specific difference divided by the statewide difference is the hospital-specific percent share of the statewide difference.

d. The hospital-specific percent share of the statewide difference, times the total funds provided by this appropriation, is the hospital-specific lump sum payment to be paid in two equal semiannual payments during fiscal year 2001.

2. The Department of Medical Assistance Services shall provide the data used, specific calculation, and mechanics of the payment adjustment to the Virginia Medicaid Hospital Policy Advisory Council.

FF. It is the intent of the General Assembly that the use of the new atypical medications to treat seriously mentally ill Medicaid recipients should be supported by the formularies used to reimburse claims under the Medicaid fee-for-service and managed care plans.

GG. The Department of Medical Assistance Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services shall develop a plan for review of Medicaid managed care plans of new, atypical medications used by Medicaid recipients to ensure appropriate access to the most effective atypical medications available for treatment of seriously mentally ill Medicaid recipients, except where indicated for the safety of the patient. The plan and estimated costs shall be reported to the Chairmen of the Senate Finance and House Appropriations Committees by October 1, 2001.

HH. The State Board for Medical Assistance Services shall develop amendments to the State Plan for Medical Assistance, to provide coverage of substance abuse treatment services for children and adults including emergency services; evaluation and assessment; outpatient services, including intensive outpatient services; targeted case management; and day treatment. The State Board shall seek the Health Care Financing Administration's approval to implement the State Plan amendments.

II. The Department, in cooperation with the Joint Commission on Health Care, Virginia Commonwealth University's Medical College of Virginia, the University of Virginia Health Sciences Center, the Eastern Virginia Medical School, the Virginia Academy of Family Physicians, the Virginia Chapter of the American College of Obstetrics and Gynecology, and the Virginia Chapter of the American College of Nurse Midwives, shall study the feasibility of providing a general fund supplement for physician services provided through Medicaid fee-for-service and Medicaid managed care plans to encourage community physicians to supervise residents, medical students, and nurse-midwifery students while providing obstetrical services. The Department's study shall include an analysis of the type and amount of supplement that could be provided as well as an estimate of the fiscal impact. The Department shall report its findings and recommendations to the Chairmen of the Senate Finance and House Appropriations Committees and the Joint Commission on Health Care by October 1, 2000.

JJ. Effective July 1, 2001, the Department shall amend the State Plan for Medical Assistance to add the category of eligibility, as described in § 1902(m) of the Social Security Act (42 U.S.C. § 1396a (m)), for aged and disabled individuals with income levels up to 80 percent of the federal poverty line.

KK. The State Plan for Medical Assistance shall be amended to provide coverage for heart, lung, and liver transplants for individuals 21 years of age or older.

LL. The Department shall report on the status of its telemedicine pilot projects and recommend any changes regarding Medicaid coverage and reimbursement of telemedicine services. The Department shall submit its report to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees and the Joint

Commission on Health Care by September 15, 2000.

MM.1. As a condition of this appropriation, effective July 1, 2000, the Department of Medical Assistance Services shall increase the reimbursement rates in the current nursing facility operating payment system to (i) restore funding for the negative impact of the case mix adjustment resulting from the Patient Intensity Rating System; (ii) reduce the occupancy standard to 90 percent for indirect and plant costs and remove the standard entirely from determination of direct care rates; (iii) adjust the direct care cost ceilings to 112 percent of the peer group median and subsequently every two years consistent with the following paragraph 3; and (iv) eliminate the direct care incentive payment. In addition, the Department shall incorporate into direct care payments the amount of $21,700,000, appropriated by the 1999 General Assembly, adjusted for inflation to fiscal year 2001. The amount shall be included by means of an equal per-day increase to both direct care ceilings and the direct care rate per day of each facility. The Department shall adopt regulations providing for the implementation of a new reimbursement system based on a Resource Utilization Groups (RUGS) methodology to reflect resident intensity. The amendments to the State Plan of Medical Assistance regarding the RUGS methodology shall become effective in 280 days or fewer of enactment of this Act. The Department shall submit a report to the Governor the Chairmen of the Senate Finance and House Appropriations Committees, and the Joint Commission on Health Care by November 1, 2000, on the implementation of the revised reimbursement rates and the status of the new reimbursement system.

2. Out of the amounts appropriated to nursing facilities, the Department may expend up to $300,000 in fiscal year 2001 for costs associated with implementing the above provisions in paragraph 1.

3. The Department shall periodically recalculate the cost medians for both direct and indirect cost, not to exceed every two years. In the years when ceilings are not recalculated with new cost data, the previous year's ceilings will be adjusted for inflation.

NN. The Department shall consider findings of the Joint Legislative Audit and Review Commission and reevaluate Medicaid reimbursement rates paid to air medevac providers. The Department shall submit a report and recommended rates to the Governor and the Chairmen of the Senate Finance Committee, the House Appropriations Committee and the Joint Commission on Health Care by September 15, 2000.

OO.1. Consistent with federal law changes contained in the 1997 Balanced Budget Act, requirements of the Health Care Financing Administration, and state industry standards, the Department of Medical Assistance Services is seeking federal approval of changes to its MEDALLION waiver and its Medallion II waiver.

2. In order to conform the state regulations to the federally approved changes and to implement the provisions of this act, the Department shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act. The Department shall implement these necessary regulatory changes to be consistent with federal approval of the waiver changes.

PP. The State Plan for Medical Assistance Services shall be amended pursuant to the Administrative Process Act, § 9-6.14:1 et seq. Code of Virginia, to place appropriate limits on coverage of prescription drugs in order to ensure fiscal efficiencies and sound therapeutic principles. The amendment may include, but not be limited to, impositions of limits on the supply of medication per prescription per patient per day. The Department of Medical Assistance Services shall promulgate emergency regulations to implement the amendment, to become effective within 280 days or less from the enactment of this act.

QQ. Contingent upon renewal of the Elderly and Disabled Waiver by the Health Care Financing Administration, the Department of Medical Assistance Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act. The Department shall implement these necessary regulatory changes to be consistent with federal approval of the waiver changes.

RR. The Department of Medical Assistance Services is hereby authorized to contract with a vendor to aid in

determining differential claimable amounts for family planning services provided by Virginia's Medicaid program prior to 2000 as permitted by the Health Care Financing Administration. The Department shall deposit the refunds resulting from this effort into a nonrevertible nongeneral fund established on the books of the State Comptroller, designated as the Family Planning Services Recoveries Fund. Payments shall be made from the Fund to the vendor for its contracted services.

SS. Contingent upon approval by the Health Care Financing Administration to implement a new Mental Retardation Waiver, the Department of Medical Assistance Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act. The Department shall implement these necessary regulatory changes to be consistent with federal approval of the waiver changes.

TT. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance Services to continue to reimburse outpatient hospital services using Medicare Principles of Cost Reimbursement that were in effect as of June 30, 2000. This amendment shall become effective within 280 days or less from the enactment of this act.

UU. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance Services to reimburse hospitals for Direct Graduate Medical Education on a prospective methodology. The amount to be reimbursed shall be determined on a per resident basis. This amendment shall become effective within 280 days or less from the enactment of this act.

VV. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase local government owned nursing homes' reimbursement based on a transfer agreement and subsequent transfer of funds. This amendment shall become effective consistent with approval by the Health Care Financing Administration (HCFA) of the related State Plan amendment. At such time as HCFA approves the State Plan amendment, the Department shall have the authority to enact emergency regulations under § 9-6.14:4.1 (C)(5) of the Administrative Process Act, to effectuate this provision.

WW. Any recoveries of payments made to nursing facilities under Item 335 II of Chapter 935, 1999 Appropriation Act, shall not revert to the general fund. These recoveries shall be retained by the Department of Medical Assistance Services for redistribution to nursing facilities in a manner consistent with state regulations governing the use of funds appropriated under the above Item.

XX. The Department of Medical Assistance Services, in cooperation with the Department of Social Services, shall track applications, enrollments, re-enrollments, denials, grounds for denials, redeterminations of eligibility, and delivery of services to children applying for or receiving Medicaid services. The database shall also track children moving between the Family Access to Medical Insurance Security and Medicaid programs. Cumulative reports of this information shall be available for public inspection and distribution at regularly scheduled intervals.

YY.1. The Department of Medical Assistance Services (DMAS) shall enter into an inter-agency agreement, with the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS), which provides DMHMRSAS with the planning, daily management, and operational responsibility for implementing and managing the home- and community-based waiver for mental retardation services (MR waiver). The agreement shall establish DMHMRSAS as operational administrator, to the maximum extent allowable under federal law and regulation of this waiver, charged with responsibilities that shall include, but not be limited to, (i) developing policy, service definitions, provider requirements, service-related recipient eligibility criteria, and preauthorization of service plans, and (ii) participating with DMAS in the internal drafting of applicable regulations and State Plan amendments. DMHMRSAS shall request and manage the funds for start-up costs for services not otherwise covered by Medicaid MR waiver reimbursement. The agreement shall charge DMAS with the responsibilities of forecasting expenditures for the MR waiver, requesting appropriations to meet the forecast, processing claims, enrolling providers, conducting utilization review, and promulgating rules and regulations. DMAS, as the single state Medicaid agency for Virginia, shall support the operational efforts of DMHMRSAS with the Health Care Financing

Administration (HCFA).

2. Any revisions to the current MR waiver or any new MR waiver application submitted to HCFA after January 1, 2001, shall specify that the MR waiver shall be operated by DMHMRSAS and that DMAS, in conjunction with DMHMRSAS, shall establish criteria for a waiting list that meets HCFA criteria and requirements, but accommodates and reflects regional variations in Virginia's diverse service delivery system to the greatest extent possible. Community services boards and behavioral health authorities shall manage the waiting list at the local level using these criteria in order to facilitate planning with other providers for service needs of consumers. Community services boards and behavioral health authorities shall remain the single point of entry for waiver services and have the sole responsibility for targeted case management and care coordination, consistent with Item 323, paragraph J, of this act. As the local managers of services, community services boards and behavioral health authorities shall ensure local accountability for publicly funded services, continuity of care, census management and discharge planning with state facilities, the health and safety of consumers that they serve, consumer choice of services and providers, and whenever available, the involvement and participation of private providers. Services provided directly by community services boards, behavioral health authorities and private providers shall be choices for consumers.

3. In preparing the revised home- and community-based waiver application for mental retardation services, consideration shall be given to the key values of the consumer and the family in their choice of services and providers; providing flexibility to best meet the needs of the consumer; protecting the health, safety and well being of the consumer; and providing supports that are self-directed whenever possible.

4. DMAS and DMHMRSAS shall review the draft HCFA report on the current waiver. Throughout the waiver revision or development process, DMAS and DMHMRSAS shall work with the Mental Retardation Waiver Task Force and provide the opportunity for participation by consumers, families, advocates, and other interested parties.

5. Thirty days before submission to HCFA, the home- and community-based waiver application, along with an implementation plan, shall be submitted to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Chairman of the Joint Behavioral Health Care Commission no later than September 15, 2001. The implementation plan shall include rate-setting methodologies, strategies for provider development, development of mechanisms with private providers to assure consumers have individualized choices of service providers, impact of major systems changes, and transition from the current waiver to the revised waiver. DMAS expenditure forecasts for the new waiver shall be included in this plan.

ZZ.1. The Department of Medical Assistance Services shall amend its inter-agency agreement with the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) to clearly identify DMHMRSAS as the operational administrator, to the maximum extent allowable under federal law and regulation, of the mental retardation home- and community-based waiver and of the following Medicaid services: community mental health rehabilitation services; targeted mental health and mental retardation case management; substance abuse treatment for pregnant and postpartum women; intensive in-home and therapeutic day treatment services for children and adolescents in the Early and Periodic Screening, Diagnosis and Treatment Program; and any other new or expanded mental health, mental retardation and substance abuse services related to these services that are subsequently covered by the Medicaid program. This agreement shall include or reflect applicable provisions in the following paragraphs.

2. DMHMRSAS, as the operational administrator, to the maximum extent allowable under federal law and regulation, shall be responsible for planning, daily management, and operational responsibility for the home- and community-based waiver for mental retardation services (mental retardation waiver) and for the services listed in paragraph Y.1. under the general oversight of DMAS. DMHMRSAS is charged with responsibilities that include developing policy, service definitions, provider qualifications and standards, and service-related recipient eligibility criteria; collecting data for the services listed above; and participating with DMAS in the internal

drafting of applicable regulations and amendments to the State Plan for Medical Assistance Services. DMAS is charged with forecasting expenditures; processing claims; enrolling providers; conducting utilization review; promulgating policy, rules and regulations; and funding Medicaid match within the General Assembly's appropriation. DMAS, as the single state Medicaid agency for Virginia, shall support the policy and operational efforts of DMHMRSAS with the Health Care Financing Administration (HCFA).

3. The Department of Planning and Budget, in cooperation with DMHMRSAS and DMAS, shall include the services listed in paragraph Y.1. in its November 15 forecast of Medicaid expenditures, upon which the Governor's budget recommendations will be based, for the current and subsequent biennia.

4. Community services boards and behavioral health authorities shall remain as the single point of entry for waiver services and have the sole responsibility for targeted case management, as permitted by federal law and regulation, and care coordination, consistent with Item 323, paragraph J, of this act. As the local managers of services, the community services boards and behavioral health authorities shall ensure local accountability for publicly funded services, continuity of care, census management and discharge planning with state facilities, the health and safety of consumers that they serve, consumer choice of services and providers, and whenever available, the involvement and participation of private providers. Services provided directly by community services boards, behavioral health authorities, and private providers shall be choices for consumers.

5. DMHMRSAS, as the operational administrator, with the involvement of DMAS, shall receive input from consumer and family groups, advocacy groups, community services boards, private providers, local government organizations, and other interested parties regarding the development of this agreement.

6. DMAS shall involve DMHMRSAS in planning for and developing the Requests for Proposals and contracts for Medallion II. DMHMRSAS shall work with DMAS to provide a method for consumers to explore and resolve complaints with DMAS regarding these services.

7. DMAS and DMHMRSAS, with the involvement of the stakeholders listed in paragraph ZZ.5., shall develop service definitions for flexible Medicaid-reimbursed services to facilitate the development of community services needed by consumers. These services shall include, but not be limited to, crisis stabilization, gero-psychiatric residential services, respite care, intensive outpatient services, in-home services, medication services, vocational services, programs of assertive community treatment, and consumer-run services. Medicaid-reimbursed services and service definitions shall be developmend to the maximum extent allowable under federal law and regulation.

8. DMAS and DMHMRSAS shall submit the proposed agreement by August 1, 2001, to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Chairman of the Joint Commission on Behavioral Health Care for review. DMAS and DMHMRSAS shall implement this agreement by October 1, 2001.

AAA. The Department of Medical Assistance Services, in cooperation with the Department of Mental Health, Mental Retardation, and Substance Abuse Services, shall ensure that children from birth to age six, who currently receive case management services or meet service eligibility criteria, receive case management services.

BBB. Effective July 1, 2001, the State Plan for Medical Assistance Services shall be amended to add coverage of breast and cervical cancer treatment of women diagnosed through the Breast and Cervical Cancer Early Detection Program (Every Woman's Life). The coverage shall be limited to the period of treatment for breast and cervical cancer.