
VIRGINIA STATE BUDGET

2002 Session

Budget Bill - HB30 (Introduced)

Bill Order » Office of Health and Human Resources » Item 325

Department of Medical Assistance Services

Item 325

	First Year - FY2003	Second Year - FY2004
Medical Assistance Services (Medicaid) (45600)	\$3,323,003,655	\$3,553,124,057
Nonmandatory Mental Health and Mental Retardation Services (45607)	\$224,703,957	\$224,574,601
Nonmandatory Mental Health, Mental Retardation and Substance Abuse Community Based Services (45608)	\$312,900,157	\$330,971,452
Professional and Institutional Services (45609)	\$2,760,867,219	\$2,961,293,073
Mental Illness Services (45610)	\$24,532,322	\$36,284,931
Fund Sources:		
General	\$1,616,697,696	\$1,755,275,574
Dedicated Special Revenue	\$1,517,245	\$1,517,245
Federal Trust	\$1,704,788,714	\$1,796,331,238

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 \$108,966,282 the first year from the general fund and \$115,737,675 from the federal trust fund and \$108,966,282 the second year from the general fund and \$115,608,319 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 \$115,257,370 from the general fund and \$118,815,275 from the federal trust fund, and the second year \$123,130,429 from the general fund and \$125,768,761 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 \$38,814,667 from the general fund and \$40,012,845 from the federal trust fund and the second year \$40,601,148 from the general fund and \$41,471,114 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 327.

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 Centers for Medicare and Medicaid Services 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 Centers for Medicare and Medicaid Services 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 Centers for Medicare and Medicaid Services 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 \$41,403,000 from the general fund and \$44,141,364 from nongeneral funds the first year and \$45,403,000 from the general fund and \$44,141,364 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 \$74,985,600 from the general fund and \$79,950,400 from nongeneral funds the first year and \$105,685,600 from the general fund and \$79,950,400 from nongeneral funds the second year for Medicaid payments for the 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 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 Centers for Medicare and Medicaid Services, the Department shall promulgate appropriate regulations pursuant to the Administrative Process Act, § 2.2-4000 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.

J. 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 Centers for Medicare and Medicaid Services, and shall promulgate such regulations as may be deemed necessary to implement this program.

K. 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.

L. 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.

M. 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 Centers for Medicare and Medicaid Services. If federal approval for the waiver is granted, payment for these services shall begin no later than three months following the date of approval.

N. 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.

O. 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 of each year.

P. 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 Family Access to Medical Insurance Security (FAMIS) Plan or any variation of FAMIS, 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.

Q. 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.

R.1. Consistent with federal law changes contained in the 1997 Balanced Budget Act, requirements of the Centers for Medicare and Medicaid Services, 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.

S. 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 Centers for Medicare and Medicaid Services. 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.

T. 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.

U. 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.

V. 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.

W. The Department of Medical Assistance Services shall provide for the transfer from the Mental Retardation Waiver to the Individual and Family Developmental Disabilities Support Waiver for children who reach age 6, are receiving services under the Mental Retardation Waiver, and who have been determined not to have a diagnosis of mental retardation. Contingent upon approval of these changes by the Centers for Medicare and Medicaid Services, the Department shall promulgate emergency regulations to become effective within 280 days or less from the enactment date of this act. The Department shall implement these necessary changes to be consistent with federal approval of the waiver changes.

X. Contingent upon approval by the Centers for Medicare and Medicaid Services to renew the AIDS Waiver and add consumer-directed services to the AIDS Waiver, the Department of Medical Assistance Services shall promulgate emergency regulations to add consumer-directed services to the AIDS Waiver to become effective within 280 days or less from the enactment date of this act. The Department shall implement these necessary regulatory changes to be consistent with federal approval of the waiver changes.

Y. The Department of Medical Assistance Services shall work with representatives of the nursing home community

to study the feasibility of separating professional liability insurance costs from the existing cost reimbursement formula and providing increased payments to cover higher premiums on a retroactive, historical cost basis. The Department shall report its findings to the Secretary of Health and Human Resources no later than September 15, 2002.

Z.1. The Department of Medical Assistance Services shall develop and pursue cost saving strategies with the cooperation of the Department of Social Services, Virginia Department of Health, Office of the Attorney General, Comprehensive Services Act program, Department of Education, Department of Juvenile Justice, Department of Mental Health, Mental Retardation and Substance Abuse Services, Virginia Department of Aging, Department of the Treasury, University of Virginia Health System, Virginia Commonwealth University Health System Authority, Department of Corrections, federally qualified health centers, local health departments, local school divisions, community service boards, local hospitals, and local governments, that focus on optimizing Medicaid claims and cost recoveries.

2. The Department shall submit quarterly status reports on the successful implementation of these strategies to the Department of Planning and Budget, beginning September 2002 and continuing throughout the biennium.

3. The savings paid by the identified service providers pursuant to these strategies shall be recovered and deposited into the state treasury as nongeneral fund revenue to the credit of the subprogram Medical Assistance Services Cost Containment. These funds shall be used by the Department either for direct expenditures or for transfer to the general fund for the purposes specified in this Item.

AA. The Department of Medical Assistance Services shall also develop and pursue cost saving strategies with the cooperation of the same service providers identified in Item 325Z that focus on maximizing upper payment limits.

BB. The Department of Medical Assistance Services shall retain the savings necessary to reimburse a vendor for its efforts resulting from the Department's Request for Proposals, issued on August 30, 2001, and titled Maximizing Federal Reimbursement. However, prior to reimbursement, the Department shall identify for the Department of Planning and Budget each of the vendor's revenue maximization efforts, the corresponding recovery amounts, and the necessary reimbursement. No reimbursement shall be made to the vendor without the prior approval of the Department of Planning and Budget.

CC. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance Services to increase local government owned providers' reimbursement based on a transfer agreement and subsequent transfer of funds. The increased reimbursement shall be consistent with the maximum amount allowed under federal laws and regulations. This amendment shall become effective consistent with approval by the Centers for Medicare and Medicaid Services of the related State Plan amendment. The Department shall have the authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act, to effect this provision.

DD. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance Services to increase non-state government owned public hospitals' reimbursement based on a transfer agreement and subsequent transfer of funds. The increased reimbursement shall be consistent with the maximum amount allowed under federal laws and regulations. This amendment shall become effective consistent with approval by the Centers for Medicare and Medicaid Services of the related State Plan amendment. The Department shall have the authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act, to effect this provision.

EE. The Department of Medical Assistance Services shall amend the State Plan of Medical Assistance Services to reimburse state academic health systems and academic health systems that operate under a state authority to reimburse their affiliated physician groups based on the lesser of billed charges or the Medicare fee schedule. This amendment shall become effective consistent with approval by the Centers for Medicare and Medicaid Services (CMS) of the related State Plan amendment. At such time as CMS approves the State Plan amendment, the

Department shall have the authority to enact emergency regulations under § [2.2-4011](#) of the Administrative Process Act, to effect this provision.

FF. The Board of Medical Assistance Services shall adopt regulations to be effective on or after July 1, 2002, to implement changes to the Medicaid reimbursement methodology for pharmacy services. The regulations shall decrease the maximum reimbursement to pharmaceutical products to the Average Wholesale Price minus 11 percent. The Board of Medical Assistance Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act.

GG. The Department of Medical Assistance Services 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 the local teams.