

# VIRGINIA STATE BUDGET

2009 Session

## Budget Bill - SB850 (Introduced)

Bill Order » Office of Health and Human Resources » Item 306

Department of Medical Assistance Services

Item 306	First Year - FY2009	Second Year - FY2010
<b>Medicaid Program Services (45600)</b>	<b>\$5,493,345,441</b> <b>\$5,497,833,213</b>	<b>\$5,793,807,165</b> <b>\$5,933,087,351</b>
Reimbursements to State-Owned Mental Health and Mental Retardation Facilities (45607)	\$203,128,980	\$203,128,980 \$180,053,980
Reimbursements for Mental Health and Mental Retardation Services (45608)	\$278,811,022 \$402,832,556	\$309,812,707 \$454,701,468
Reimbursements for Professional and Institutional Medical Services (45609)	\$3,432,614,422 \$3,192,655,997	\$3,663,798,569 \$3,570,981,079
Reimbursements for Long-Term Care Services (45610)	\$1,578,791,017 \$1,699,215,680	\$1,617,066,909 \$1,727,350,824
Fund Sources:		
General	\$2,517,851,059 \$2,528,914,458	\$2,672,102,788 \$2,586,743,801
Dedicated Special Revenue	\$298,607,021 \$299,233,251	\$302,677,095 \$458,719,489
Federal Trust	\$2,676,887,361 \$2,669,685,504	\$2,819,027,282 \$2,887,624,061

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, 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 \$101,564,490 the first year from the general fund and \$101,564,490 from the federal trust fund and ~~\$101,564,490~~ \$90,026,990 the second year from the general fund and ~~\$101,564,490~~ \$90,026,990 from the federal trust fund for reimbursement to the institutions within the Department of Mental Health, Mental Retardation and Substance Abuse Services.

2. The appropriation includes the first year ~~\$214,640,457~~ \$218,021,775 from the general fund and ~~\$214,640,457~~ \$218,021,775 from the federal trust fund, and the second year ~~\$220,563,983~~ \$222,714,872 from the general fund and ~~\$220,563,983~~ \$222,714,872 from the federal trust fund for estimated reimbursements for habilitative services provided to individuals on the Mental Retardation Waiver, the Mental Retardation Day Support Waiver, or the Individual and Family Developmental Disabilities Support waiver.

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 308.

E. 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.

F.1. Included in this appropriation is ~~\$64,219,072~~ \$59,042,780 from the general fund and ~~\$64,219,072~~ \$59,042,780 from nongeneral funds in the first year and ~~\$68,714,408~~ \$67,328,586 from the general fund and ~~\$68,714,408~~ \$67,328,586 from nongeneral funds in the second year to reimburse the Virginia Commonwealth University Health System for indigent health care costs. This funding is comprised of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.

2. Included in this appropriation is \$37,306,516 from the general fund and \$37,306,516 from nongeneral funds in the first year and \$42,157,704 from the general fund and \$42,157,704 from nongeneral funds in the second year to reimburse the University of Virginia Health System for indigent health care costs. This funding is comprised of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.

G. 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.

H. The Department of Medical Assistance Services and the Virginia 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 and the Department of Planning and Budget by December 15 each year.

I. The Department of Medical Assistance Services shall implement continued enhancements to the prospective drug utilization review (pro-DUR) program. The Department shall continue the Pharmacy Liaison Committee and

the pro-DUR Committee. The department shall continue to work with the Pharmacy Liaison Committee to implement initiatives for the promotion of cost-effective services delivery as may be appropriate. The department shall report on the Pharmacy Liaison Committee's and the pro-DUR Committee's activities to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget no later than December 15 each year of the biennium.

J. 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.

K. 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.

L. 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.

M.1. The Department of Medical Assistance Services shall have the authority to seek 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.

N. The Department of Medical Assistance Services shall develop and pursue cost saving strategies internally and 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 for the 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. Any revenues generated through these activities shall be transferred to the Virginia Health Care Fund to be used for the purposes specified in this Item.

O. The Department of Medical Assistance Services shall retain the savings necessary to reimburse a vendor for its efforts to implement paragraph N of this Item. However, prior to reimbursement, the Department shall identify for the Secretary of Health and Human Resources each of the vendor's revenue maximization efforts and the manner in which each vendor would be reimbursed. No reimbursement shall be made to the vendor without the prior approval of the above plan by the Secretary.

P. The Department of Medical Assistance Services in cooperation with the State Executive Council, shall provide semi-annual 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.

Q. Contingent upon approval by the Centers for Medicare and Medicaid Services to implement a new Independence Plus Home and Community Based Services Waiver, the Department of Medical Assistance Services 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 regulatory changes to be consistent with federal approval of the waiver application developed by the department and stakeholders. In the event a recipient of a waiver slot under the Independence Plus Home and Community Based Services Waiver exits the program, funding for the slot shall revert to the waiver program from which the recipient came.

R.1. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, the Department of Medical Assistance Services, in consultation with the Department of Mental Health, Mental Retardation and Substance Abuse Services, shall amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a Preferred Drug List. In developing the modifications, the department shall consider input from physicians, pharmacists, pharmaceutical manufacturers, patient advocates, and others, as appropriate.

2.a. The department shall utilize a Pharmacy and Therapeutics Committee to assist in the development and ongoing administration of the Preferred Drug List program. The Pharmacy and Therapeutics Committee shall be composed of 8 to 12 members, including the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services, or his designee. Other members shall be selected or approved by the department. The membership shall include a ratio of physicians to pharmacists of 2:1 and the department shall ensure that at least one-half of the physicians and pharmacists are either direct providers or are employed with organizations that serve recipients for all segments of the Medicaid population. Physicians on the Committee shall be licensed in Virginia, one of whom shall be a psychiatrist, and one of whom specializes in care for the aging. Pharmacists on the Committee shall be licensed in Virginia, one of whom shall have clinical expertise in mental health drugs, and one of whom has clinical expertise in community-based mental health treatment. The Pharmacy and Therapeutics Committee shall recommend to the Department (i) which therapeutic classes of drugs should be subject to the Preferred Drug List program and prior authorization requirements; (ii) specific drugs within each therapeutic class to be included on the preferred drug list; (iii) appropriate exclusions for medications, including atypical anti-psychotics, used for the treatment of serious mental illnesses such as bi-polar disorders, schizophrenia, and depression; (iv) appropriate exclusions for medications used for the treatment of brain disorders, cancer and HIV-related conditions; (v) appropriate exclusions for therapeutic classes in which there is only one drug in the therapeutic class or there is very low utilization, or for which it is not cost-effective to include in the Preferred Drug List program; and (vi) appropriate grandfather clauses when prior authorization would interfere with established complex drug regimens that have proven to be clinically effective. In developing and maintaining the preferred drug list, the cost effectiveness of any given drug shall be considered only after it is determined to be safe and clinically effective.

b. The Pharmacy and Therapeutics Committee shall schedule meetings at least quarterly and may meet at other times at the discretion of the Chairperson and members. At the meetings, the Pharmacy and Therapeutics committee shall review any drug in a class subject to the Preferred Drug List that is newly approved by the Federal Food and Drug Administration, provided there is at least thirty (30) days notice of such approval prior to the date of the quarterly meeting.

3. The department shall establish a process for acting on the recommendations made by the Pharmacy and Therapeutics Committee, including documentation of any decisions which deviate from the recommendations of the Committee.

4. The Preferred Drug List program shall include provisions for (i) the dispensing of a 72-hour emergency supply of the prescribed drug when requested by a physician and a dispensing fee to be paid to the pharmacy for such supply; (ii) prior authorization decisions to be made within 24 hours and timely notification of the recipient and/or the prescribing physician of any delays or negative decisions; (iii) an expedited review process of denials by the department; and (iv) consumer and provider education, training and information regarding the Preferred Drug List prior to implementation, and ongoing communications to include computer access to information and multilingual material.

5. The Preferred Drug List program shall generate savings as determined by the department that are net of any administrative expenses to implement and administer the program.

6. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, to implement these changes, the Department of Medical Assistance Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act. With respect to such state plan amendments and regulations, the provisions of § 32.1-331.12 et seq., Code of Virginia, shall not apply. In addition, the department shall work with the Department of Mental Health, Mental Retardation, and Substance Abuse Services to consider utilizing a Preferred Drug List program for its non-Medicaid clients.

7. The Department of Medical Assistance Services shall exempt antidepressant and anti-anxiety medications used for the treatment of mental illness from the Medicaid Preferred Drug List program. The Director of the Department of Medical Assistance Services, in cooperation with the Department of Mental Health, Mental Retardation and Substance Abuse Services, shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2008, on the impact on patient care and costs of including these medications in the Preferred Drug List in the future.

8. The department shall provide to the Governor; the House Committees on Appropriations, and Health, Welfare and Institutions; the Senate Committees on Finance, and Education and Health; and the Joint Commission on Health Care a report on the Preferred Drug List (PDL) Program no later than November 1 of each year. The report shall include the direct savings attributed to the PDL for the prior fiscal year, an estimated savings of the program for the next fiscal year, and the cost to administer the PDL.

S.1. The Department of Medical Assistance Services shall reimburse school divisions who sign an agreement to provide administrative support to the Medicaid program and who provide documentation of administrative expenses related to the Medicaid program 50 percent of the Federal Financial Participation by the department.

*2. The department shall retain five percent of the Federal Financial Participation for reimbursement to school divisions for medical and transportation services. This reimbursement will cover the department's costs in assisting school divisions in submitting cost reports.*

T. In the event that the Department of Medical Assistance Services decides to contract for pharmaceutical benefit management services to administer, develop, manage, or implement Medicaid pharmacy benefits, the Department shall establish the fee paid to any such contractor based on the reasonable cost of services provided. The Department may not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses cannot be based on the percentage of cost savings generated under the benefit management of services.

U.1. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to modify the reimbursement methodology used to reimburse for generic drug products. The new methodology shall reimburse for the product cost based on a Maximum Allowable Cost list to be established by the department. Such amendments shall be effective within 280 days or less from the enactment of this act.

2. In developing the maximum allowable cost (MAC) reimbursement rate for generic pharmaceuticals, the department shall: (i) if publicly available, publish the factors used to set state MAC rates, including the identity of the reference product used to set the MAC rate; the GCN number of the reference product; the factor by which the MAC rate exceeds the reference product price, which shall be not less than 110 percent of the lowest-published wholesale acquisition cost for products widely available for purchase in the state, and included in national pricing compendia; and the identity and date of the published compendia used to determine the reference product and set the MAC rate; (ii) identify three different suppliers that are able to supply the product and from whom pharmacies

are able to purchase sufficient quantities of the drug. The drugs considered must be listed as therapeutically and pharmaceutically equivalent in the FDA's most recent version of the "Orange Book"; (iii) identify that the use of a MAC rate is lower than the Federal Upper Limit (FUL) for the drug, or the development of a MAC rate that does not have a FUL will not result in the use of higher-cost innovator brand name or single source drugs in the Medicaid program; and (iv) distribute the list of state MAC rates to pharmacy providers in a timely manner prior to the implementation of MAC rates and subsequent modifications.

3. The department shall: (i) review and update the list of MAC rates at least quarterly; (ii) implement and maintain a procedure to eliminate products from the list, or modify MAC rates, consistent with changes in the marketplace; and (iii) provide an administrative appeals procedure to allow a dispensing provider to contest a listed MAC rate.

4. The department shall conduct an analysis of the fiscal impact of the implementation of "Average Manufacturer Price" (AMP), as required by the federal Deficit Reduction Act of 2005, Public Law 109-171. Upon the later of April 15, 2008, or 90 days after the effective date of the regulation that the United States Secretary of Health and Human Services must promulgate under Section 6001(c)(3) of the 'Deficit Reduction Act of 2005,' Pub. L. No. 109-171, the department shall report to the Governor and the chairmen of the Senate Finance and House Appropriations Committees the amount of savings anticipated in the Medicaid Forecast as a result of this change in federal law. In the event that anticipated pharmacy savings exceed the amount of savings assumed in the Medicaid Forecast, the department shall make recommendations concurrently with the report regarding the adjustment of pharmacy dispensing fees based on the impact of changes in local pharmacy reimbursements.

V. 1. Out of this appropriation, the dedicated special fund appropriation for Medical Assistance Services includes ~~\$305,917,459~~ \$299,233,251 the first year and ~~\$303,303,325~~ \$458,719,489 the second year from the Virginia Health Care Fund.

2. Notwithstanding any other provision of law, the State Comptroller shall deposit 50 percent of the Commonwealth's allocation of the Strategic Contribution Fund payment pursuant to the Master Settlement Agreement with tobacco product manufacturers into the Virginia Health Care Fund.

W. The Department of Medical Assistance Services shall ensure that in the process of developing the Preferred Drug List, the Pharmacy and Therapeutics Committee considers the value of including those prescription medications which improve drug regimen compliance, reduce medication errors, or decrease medication abuse through the use of medication delivery systems that include, but are not limited to, transdermal and injectable delivery systems.

X. The Department of Medical Assistance Services, in cooperation with the Department of Social Services' Division of Child Support Enforcement, shall identify and initiate third party recovery actions where there is a medical support order requiring a noncustodial parent to contribute to the medical cost of a child who is enrolled in the Medicaid or Family Access to Medical Insurance Security (FAMIS) Programs.

Y.1. Within the limits of this appropriation, the Department of Medical Assistance Services shall work with its contracted managed care organizations and fee-for-service health care providers to: (i) raise awareness among the providers who serve the Medicaid population about the health risks of chronic kidney disease; (ii) establish effective means of identifying patients with this condition; and (iii) develop strategies for improving the health status of these patients. The Department shall work with the National Kidney Foundation to prepare and disseminate information for physicians and other health care providers regarding generally accepted standards of clinical care and the benefits of early identification of individuals at highest risk of chronic kidney disease.

2. Effective July 1, 2006, the department shall request any clinical laboratory performing a serum creatinine test on a Medicaid recipient over the age of 18 years to calculate and report to the physician the estimated glomerular filtration rate (eGFR) of the patient and shall report it as a percent of kidney function remaining.

Z.1. The Director, Department of Planning and Budget is authorized to transfer amounts, as needed, from Medicaid Program Services (program 45600) to Administrative and Support Services (program 49900) to fund administrative expenditures associated with contracts between the Department of Medical Assistance Services and companies providing disease state and chronic care management programs services for Medicaid recipients. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

2. The department shall report on its efforts to contract for and implement disease state and chronic care management programs in the Medicaid program by November 1 of each year of the biennium, to the Chairmen of the Senate Finance and House Appropriations Committees and the Department of Planning and Budget. The report shall include estimates of savings that may result from such programs.

AA.1. Notwithstanding the provisions of § 32.1-325.1:1, Code of Virginia, upon identifying that an overpayment for medical assistance services has been made to a provider, the Director, Department of Medical Assistance Services shall notify the provider of the amount of the overpayment. Such notification of overpayment shall be issued within the earlier of (i) four years after payment of the claim or other payment request, or (ii) four years after filing by the provider of the complete cost report as defined in the Department of Medical Assistance Services' regulations, or (iii) 15 months after filing by the provider of the final complete cost report as defined in the Department of Medical Assistance Services' regulations subsequent to sale of the facility or termination of the provider.

2. Notwithstanding the provisions of § 32.1-325.1, Code of Virginia, the director shall issue an informal fact-finding conference decision concerning provider reimbursement in accordance with the State Plan for Medical Assistance, the provisions of § 2.2-4019, Code of Virginia, and applicable federal law. The informal fact-finding conference decision shall be issued within 180 days of the receipt of the appeal request. If the agency does not render an informal fact-finding conference decision within 180 days of the receipt of the appeal request, the decision is deemed to be in favor of the provider. An appeal of the director's informal fact-finding conference decision concerning provider reimbursement shall be heard in accordance with § 2.2-4020 of the Administrative Process Act (§ 2.2-4020 et seq.) and the State Plan for Medical Assistance provided for in § 32.1-325, Code of Virginia. Once a final agency case decision has been made, the director shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the informal fact-finding conference decision or the final agency case decision. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313, Code of Virginia, from the date the Director's agency case decision becomes final.

BB. Any hospital that was designated a Medicare-dependent small rural hospital, as defined in 42 U.S.C. §1395ww (d) (5) (G) (iv) prior to October 1, 2004, shall be designated a rural hospital pursuant to 42 U.S.C. §1395ww (d) (8) (ii) (II) on or after September 30, 2004.

CC.1. The Department of Medical Assistance Services may amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a specialty drug program. In developing the modifications, the department shall consider input from physicians, pharmacists, pharmaceutical manufacturers, patient advocates, the Pharmacy Liaison Committee, and others as appropriate.

2. In developing the specialty drug program to implement appropriate care management and control drug expenditures, the department shall contract with a vendor who will develop a methodology for the reimbursement and utilization through appropriate case management of specialty drugs and distribute the list of specialty drug rates, authorized drugs and utilization guidelines to medical and pharmacy providers in a timely manner prior to the implementation of the specialty drug program and publish the same on the department's website.

3. In the event that the Department of Medical Assistance Services contracts with a vendor, the department shall establish the fee paid to any such contractor based on the reasonable cost of services provided. The department may not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a

program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses cannot be based on the percentage of cost savings generated under the benefit management of services.

4. The department shall: (i) review, update and publish the list of authorized specialty drugs, utilization guidelines, and rates at least quarterly; (ii) implement and maintain a procedure to revise the list or modify specialty drug program utilization guidelines and rates, consistent with changes in the marketplace; and (iii) provide an administrative appeals procedure to allow dispensing or prescribing provider to contest the listed specialty drugs and rates.

5. The department shall report on savings and quality improvements achieved through the implementation measures for the specialty drug program to the Chairmen of the House Appropriations and Senate Finance Committees, the Joint Commission on Health Care, and the Department of Planning and Budget by November 1 of each year.

6. The department shall have authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act to effect these provisions.

DD. The Department of Medical Assistance Services has the authority to implement cost-based reimbursement for special education health services furnished by school division providers effective July 1, 2006. School division providers shall file annual cost reports for these services and the department shall settle reimbursement to actual costs. Reimbursement to school divisions shall continue to be subject to the provisions of § 32.1-326.3(A)(1) of the Code of Virginia that only the federal share shall be reimbursed for special education health services and that local governments fund the state match for special education health services provided by school divisions.

EE. The Department of Medical Assistance Services shall work with representatives of the nursing home provider associations to develop a revised cost-reporting methodology which improves the timeliness and efficiency of the current process. A specific goal of such an enhanced process would be to decrease by one year the look-back period used within the biennial cost ceiling rebase determination.

FF. The Department of Medical Assistance Services shall have the authority to amend the State Plan of Medical Assistance Services to implement modifications to the Medicaid program to comply with the mandated provisions of the federal Deficit Reduction Omnibus Reconciliation Act of 2005. This authorization shall apply only to those provisions the states are required to implement within 280 days of enactment of this Appropriation Act. The department shall have the authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act to effect this provision. The department shall notify the Chairmen of the House Appropriations and Senate Finance Committees no less than 30 days prior to the submission of amendments to the State Plan of Medical Assistance Services.

GG. The Department of Medical Assistance Services, in consultation with the appropriate stakeholders, shall develop a long-range blueprint for the development and implementation of an integrated acute and long-term care system. This plan shall: (i) explain how the various community and state level stakeholders will be involved in the development and implementation of the new program model(s); (ii) describe the various steps for development and implementation of the program model(s), including a review of other states' models, funding, populations served, services provided, education of clients and providers, and location of programs; (iii) describe how the existing system is funded and how integration will impact funding; and (iv) describe the evaluation methods that will be used to ensure that the program provides access, quality, and consumer satisfaction.

HH. The Department of Medical Assistance Services shall implement one or more Program for All Inclusive Care for the Elderly (PACE) programs.



II. The Department of Medical Assistance Services shall amend its State Plan for Medical Assistance Services to develop and implement a regional model for the integration of acute and long-term care services. This model would be offered to elderly and disabled clients on a mandatory basis. The Department shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

JJ.1. The Director, Department of Medical Assistance Services shall seek the necessary waiver from the United States Centers for Medicare and Medicaid Services to expand eligibility for Medicaid coverage of family planning services to individuals with a family income up to 133 percent of the federal poverty level. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions. The Department of Medical Assistance Services shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.

2. The Department of Medical Assistance Services shall, if feasible and consistent with federal requirements, seek the necessary waiver from the Centers for Medicare and Medicaid Services to expand eligibility for Medicaid coverage of family planning services to individuals with a family income above 133 percent of the federal poverty level up to an eligibility level that will not compromise federal budget neutrality for the waiver, but not to exceed 200 percent of the federal poverty level.

KK.1. Contingent upon approval by the Centers for Medicare and Medicaid Services as part of the Money Follows the Person demonstration grant, the Department of Medical Assistance Services shall seek federal approval for necessary changes to home and community-based 1915(c) waivers to allow individuals transitioning from institutions to receive care in the community. The Department of Medical Assistance Services shall promulgate any necessary emergency regulations within 280 days or less from the enactment date of this act.

2. The Department of Medical Assistance Services shall amend the Individual and Family Developmental Disabilities Support (DD) Waiver to add 30 new slots (15 each fiscal year) and the Mental Retardation (MR) Waiver to add 220 new slots (110 each fiscal year) which will be reserved for individuals transitioning out of institutional settings through the Money Follows the Person Demonstration. The Department of Medical Assistance Services shall seek federal approval for necessary changes to the DD and MR waiver applications to add the additional slots. Additionally, the department shall have authority to implement the Money Follows the Person Demonstration prior to the completion of any regulatory process undertaken in order to affect the program.

LL. The Department of Medical Assistance Services shall have the authority to amend the managed care waiver to allow the department to enroll adoption assistance recipients into managed care organizations as defined in 12 VAC 30-120-360 through 12 VA 30-120-420. In addition, the department shall have the authority to amend the State Plans for Titles XIX (Medical Assistance) and XXI (Family Access to Medical Insurance Security Plan – FAMIS) of the Social Security Act, as required by applicable statute and regulations to provide managed care services to adoption assistance recipients. The Department of Medical Assistance Services shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

MM. The Department of Medical Assistance Services shall be authorized, in collaboration with the Virginia Commonwealth University Health System (VCUHS), to seek a waiver from the Centers for Medicare and Medicaid Services (CMS) to permit use of Disproportionate Share Hospital (DSH) funds to allow the VCUHS (Hospital and Physician Practice) to continue the existing partnership with community physicians and with any community hospitals who are providing less costly health care services to eligible indigent patients for VCUHS. As part of the waiver application process the parties shall develop estimates of the cost of the program to the state and federal governments, and shall report the findings to the Governor and to the Chairman of the House Appropriations and the Senate Finance Committees. If the Director, Department of Planning and Budget, determines that the waiver program would not require additional state funds, the program shall be implemented upon receiving CMS approval. If additional state funding is needed, the program shall not be implemented until such funding is authorized

through the budget process.

NN. The Department of Medical Assistance Services shall, at the direction of the Secretary of Health and Human Resources, amend the State Plan for Medical Assistance to count all life estates as a resource in the determination of Medicaid eligibility for covered groups for which a resource determination is required, including those individuals requesting Medicaid payment of long-term care services. Life estates held in the property serving as the principal residence at the time an individual becomes institutionalized are not a countable resource in the Medicaid determination for the first six months following admission to a long-term care facility. This provision shall apply only to life estates created after the effective date of agency regulations implementing this provision. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

OO. The Department of Medical Assistance Services shall have the authority to implement prior authorization and utilization review for community-based mental health services for children and adults. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

PP. The Department of Medical Assistance Services shall amend the State Plan of Medical Assistance Services to implement a "site of service" reimbursement differential using Medicare facility relative value units (RVUs) for facility-based services instead of non-facility RVUs, as defined in the Resource Based Relative Value System (RBRVS) methodology prescribed in [12VAC30-80-190](#), state agency fee schedule for RBRVS. The implementation of facility RVUs shall be budget neutral. The department shall reallocate changes in expenditures from implementing this site of service payment policy proportionately to all physician services. The site of service differential shall be implemented over a four-year period, effective July 1, 2008. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

QQ. The Department of Medical Assistance Services shall have the authority to seek federal approval of changes to its managed care waiver to limit the Primary Case Management program to localities of the state with only one participating managed care organization. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

RR. The Department of Medical Assistance Service shall realign the rates paid for individual supported employment provided under the Medicaid home- and community-based waivers to the same level paid by the Department of Rehabilitative Services (DRS) to employment services organizations. The Department shall implement this change effective July 1, 2008, and subsequently whenever the DRS rates for employment services organizations are changed. The Department shall modify state regulations to make this change permanent.

SS. The Department of Medical Assistance Services (DMAS) shall develop a plan to amend the State Plan for Medical Assistance or submit a research and demonstration project waiver pursuant to Section 1115 of Title XIX of the Social Security Act, as amended, to implement a system of monetary incentives for Medicaid recipients to make healthy decisions and to engage in self-management of their healthcare, and the deposit of incentive funds in enhanced benefits accounts to be accessed by enrollees to purchase healthcare services or items that are not covered under Virginia Medicaid and which will assist enrollees in being personally responsible for their own healthcare. The plan shall include the development of necessary changes in funding, law or regulations for the implementation of the changes. The plan is to be submitted to the Governor, the Secretary of Health and Human Resources, the Joint Commission on Health Care, and the Chairmen of the House Appropriations and Senate Finance Committees by October 30, 2008, for consideration in the development of amendments to the 2008-10 Appropriations Act.

TT. Out of this appropriation, \$5,000,000 the first year and ~~\$5,000,000~~ \$2,777,777 the second year from the general fund and \$5,000,000 the first year and ~~\$5,000,000~~ \$2,777,777 the second year from nongeneral funds shall be used

to increase reimbursement rates paid to providers of congregate residential group home services for individuals in the Mental Retardation Home and Community-based Waiver Program. *In the first year, the rates shall be set by 3.6 percent higher than the rates in effect June 30, 2008, and in the second year shall be set 2.0 percent higher than the rates in effect June 30, 2008. That is, the rates in the second year shall be lower than the rates in the first year, but higher than the rates effective on June 30, 2008 effective July 1, 2008.*

UU. Effective July 1, 2008, and ending after June 30, 2010, the Department shall reduce prospective inpatient hospital payment rates by 2.683 percent below the rates that otherwise would be in effect. The Department shall amend the State Plan to authorize this change, and shall have the authority to implement this reimbursement change effective July 1, 2008, and prior to the completion of any regulatory process undertaken in order to effect such change. The Department shall not replace through other payment mechanisms the losses of Type One hospitals from this reimbursement change. *However, the department can reimburse, only federal funds, if the Type One hospital is able to certify the public expenditure.*

VV. Effective July 1, 2008, and ending after June 30, 2010, the Department of Medical Assistance Services shall reduce nursing facility direct and indirect care payment rates by 1.329 percent below the rates that otherwise would be in effect. The Department of Medical Assistance Services shall amend the State Plan to authorize this change, and shall have the authority to implement this reimbursement change effective July 1, 2008, and prior to the completion of any regulatory process undertaken in order to effect such change.

WW. *The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to decrease the dispensing fee paid to pharmacists from \$4.00 to \$3.75 per prescription per month. Such amendments to the State Plan shall become effective July 1, 2009.*

XX. *Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to convert the current reimbursement methodology for rehabilitation agencies to a statewide prospective rate for individual and group services to achieve estimated savings of \$185,909 the second year in general funds and \$185,909 the second year in nongeneral funds. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act. This shall not apply to rehabilitation services furnished by the Community Services Boards.*

YY. *The Department of Medical Assistance Services shall ensure that the FY 2010 capitation rate increase for Medallion II does not exceed seven percent. If other provider rate limitations required by this act result in corresponding downward adjustments to the FY 2010 capitation rates, this seven percent limit shall be reduced by the amount of the impact on Medallion II rates of those downward adjustments. The department shall apply the same limit to the calculation of rates for FAMIS.*

ZZ. *Effective July 1, 2009, the department shall have the authority to amend the State Plan for Medical Assistance to eliminate reimbursement for hospital acquired conditions in a manner similar to the Medicare initiative implemented October 1, 2008. The department shall have the authority to implement this reimbursement change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change. The department shall also revise its medical necessity criteria to be consistent with Medicare national coverage determinations as part of the overall Medicare initiative.*

AAA. *Effective July 1, 2009, the Department of Medical Assistance Services shall seek federal approval for the necessary changes to home and community-based 1915 (c) waivers to ensure that the actual cost of waiver services for an individual does not exceed the average annual cost of the alternative institutional setting. The department shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.*

BBB. *Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to clarify that existing family healthcare coverage is a factor in the determination of cost effectiveness*

*under the Health Insurance Premium Payment program. Cases which result in a determination that participation is not cost effective shall be denied premium assistance. The department shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.*

*CCC. Effective July 1, 2009, the Department of Medical Assistance Services shall impose an assessment equal to 5.5 percent of revenue on all Intermediate Care Facilities for the Mentally Retarded (ICF-MR). The department shall determine procedures for collecting the assessment. The Department shall have the authority to adjust interim rates to cover new Medicaid costs as a result of this assessment.*

*DDD. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to reduce reimbursement to long-stay hospitals to achieve savings in the second year of \$990,000 general fund and \$990,000 nongeneral fund.*

*EEE. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to eliminate payment for extraordinary transportation costs for home health providers effective July 1, 2009. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.*

*FFF. The Department of Medical Assistance Services shall increase fees paid for consumer-directed personal care services paid under the department's home and community-based care waivers by three percent effective July 1, 2009. Personal care includes personal care, respite care and companion care services provided in the EDCD, HIV/AIDS, MR and DD waivers.*

*GGG. Pursuant to Section 4-1.05.a.4. of this act, \$1,399,287 of the June 30, 2008, general fund balances required to be reappropriated have been transferred to the general fund.*

*HHH. Pursuant to Section 4-1.05.a.4. of this act, \$9,217,697 of the June 30, 2008, Virginia Health Care Fund balances required to be reappropriated have been transferred to the general fund.*

*III. Effective July 1, 2009, the Department of Medical Assistance Services shall seek federal approval for the necessary changes to the 1915(c) home and community-based waiver, known as the Elderly or Disabled with Consumer Direction (EDCD) program, to cap the enrollment at 15,250 slots. The department shall develop and implement a statewide waiting list. Current and potential enrollees in the Virginia Acute and Long Term Care Integration and Money Follows the Person programs are a priority and will automatically receive a slot. All other eligible individuals will be enrolled in the EDCD waiver as slots are available. The department shall have the authority to implement this change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change. The department shall have emergency regulatory authority to implement this change.*

*JJJ.. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance governing Medicaid reimbursements for freestanding psychiatric hospitals, licensed as hospitals, to rebase rates using FY 2005 base year data and an adjustment factor of 100 percent. Going forward, rates for freestanding psychiatric hospitals shall be rebased on the same schedule as other hospitals. The department shall have the authority to implement this reimbursement change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*KKK. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to reduce hospital capital reimbursement from 80 percent of cost to 75 percent of cost for Type Two hospitals. This does not apply to Type Two hospitals whose Virginia Medicaid utilization, which is defined as patient days, exceeds 50 percent. The department shall have the authority to implement this reimbursement change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*LLL. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to set the hospital adjustment factor for Type Two hospitals to 75 percent for general acute care cases and acute care rehabilitation cases and 81 percent for acute care for psychiatric cases. The adjustment factors for Type One hospitals shall be calculated such that the operating rate per case or per day for Type One hospitals equals the operating rate per case or per day for Type Two hospitals. This does not apply to Type Two hospitals for which Virginia Medicaid utilization, which is defined as patient days, exceeds 50 percent. The department shall have the authority to implement this reimbursement change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*MMM. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to restrict additional IME payments based on NICU utilization in excess of 50 percent as reported to the Department of Medical Assistance Services as of March 1, 2004, to hospitals licensed in Virginia. IME payments to Virginia hospitals shall remain unchanged. The Department shall have the authority to implement this reimbursement change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*NNN. The Department of Medical Assistance Services shall not adjust rates or the rate ceiling of residential psychiatric facilities for inflation in FY 2010.*

*OOO. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to reduce by 50 percent the inflation adjustment that became effective January 1, 2009, for home health rates, make the next inflation adjustment July 1, 2010, and make future annual inflation adjustments effective on July 1. The department shall have the authority to implement this reimbursement change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*PPP. Beginning with the last quarter of FY 2009, the Department of Medical Assistance Services shall delay the last quarterly payment of certain quarterly amounts paid to hospitals, from the end of each state fiscal year to the first quarter of the following year. Quarterly payments that shall be delayed from each June to each July shall be Disproportionate Share Hospital payments, Indirect Medical Education payments, and Direct Medical Education payments. The department shall have the authority to implement this reimbursement change effective upon passage of this act, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*QQQ. Beginning with the June 2009 monthly capitation payment to managed care organizations, the Department of Medical Assistance Services shall make payment for the member months of each month in the first week of the subsequent month. The department shall have the authority to implement this reimbursement schedule change effective upon passage of this act, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*RRR. Beginning with the remittance that would normally be paid to providers on June 26, 2009, the Department of Medical Assistance Services shall delay payment of the remittances of all Medicaid and FAMIS providers for one week longer than has previously been its practice. This change does not apply to providers who are paid a per-month capitation payment. The department shall have the authority to implement this reimbursement change effective upon passage of this act, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*SSS. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to eliminate the FY 2010 adjustment for inflation of hospital operating rates, disproportionate share hospital payments and graduate medical education payments. The department shall not replace through other payment mechanisms the losses of Type One hospitals from this reimbursement change. However, the department can reimburse, only federal funds, if the Type One hospital is able to certify the public expenditure. This*

*reimbursement change does not apply to hospitals operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The department shall have the authority to implement this reimbursement change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*TTT. Effective July 1, 2009, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to eliminate the adjustment for inflation of nursing facility operating rates and ceilings and specialized care rates and ceilings for days of service in FY 2010. Providers with fiscal years in progress will have the most recent year's inflation eliminated from the rate effective July 1, 2009. Providers with fiscal periods starting July 1, 2009, will not have inflation applied to the rate for that period. This reimbursement change does not apply to nursing facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The department shall have the authority to implement this reimbursement change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change.*

*UUU. The Department of Medical Assistance Services shall examine the methodology for reimbursing durable medical equipment in response to proposals to effectuate savings as part of the Enterprise Applications Master Services Interim Agreement between the Commonwealth of Virginia and CGI Technologies and Solutions, Inc. If this examination reveals that changes in the present reimbursement process are warranted in order to streamline operations and achieve efficiencies in this area; such actions shall be considered to fall under the scope of Item 63, paragraph B. of this act. The department is authorized to adopt emergency regulations to implement such savings including but not limited to changing the rate structure and manner of such reimbursement.*