



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

July 13, 2021

Daniel Tsai
Deputy Administrator and Director
Center for Medicaid & CHIP Services (CMCS)
7500 Security Blvd
Baltimore, MD 21244

Dear Deputy Administrator and Director Tsai:

The Maryland Department of Health (the Department) is pleased to submit the enclosed Initial Spending Plan Projection and Narrative to enhance, expand, and strengthen home and community-based services (HCBS) and behavioral health services under the Medicaid program using an estimated \$228.6 million in federal financial participation (FFP) pursuant to Section 9817 of the American Rescue Plan Act of 2021 (ARPA). The Department will serve as the oversight organization for the HCBS ARPA funds.

Use of enhanced federal funding will reinforce the Department's commitment to improve equity and access to HCBS for those with physical disabilities, intellectual and developmental disabilities, and behavioral health needs. The Department will use the majority of funds to increase provider rates, as directed in the State's fiscal year 2022 budget passed during the 2021 Maryland legislative session. Plans for the remaining funds are under consideration and will include stakeholder input. Information will be shared in future updates.

The Department has a strong history and commitment to providing a robust set of HCBS aimed at rebalancing long-term services and supports (LTSS) and behavioral health services toward community settings, allowing individuals to be served in the most appropriate and least restrictive place.

Collaboration between the Maryland Developmental Disabilities Administration (DDA) and the Maryland Behavioral Health Administration (BHA) is a key component of this proposed spending plan. The Department is also committed to working with our many community partners and stakeholders in a collaborative fashion to achieve the goals of enhancing, expanding and strengthening HCBS. The HCBS American Rescue Plan funds will complement other ongoing initiatives in Maryland aimed at rebalancing long-term services and supports and behavioral health services towards community living. Further, the Department assures the Centers for Medicare and Medicaid Services (CMS) that:

- The state is using the federal funds attributable to the increased federal medical assistance percentage (FMAP) to supplement and not to supplant existing state funds expended for Medicaid HCBS in effect as of April 1, 2021;
- The state is using the state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement the implementation of one or more activities to enhance, expand, or strengthen HCBS under the Medicaid program;
- The state is not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021;
- The state is preserving covered HCBS, including the services themselves and the amount, duration, and scope of those services that were in effect as of April 1, 2021; and
- The state is maintaining HCBS provider payments at a rate no less than those in place as of April 1, 2021.

The Department will serve as the Operating Agency for the American Rescue Plan initiatives through the Maryland Medicaid program. If you would like to discuss this further, please contact me at tricia.rodny@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Tricia Roddy". The signature is written in a cursive, flowing style.

Tricia Roddy
Deputy Medicaid Director

Introduction

On March 11, 2021, President Biden signed into law the American Rescue Plan Act (ARPA). A portion of ARPA (Section 9817) provides additional support for Medicaid home and community-based services (HCBS) during the COVID-19 emergency by providing a 10% enhanced federal medical assistance percentage (FMAP) for a one-year period from April 1, 2021 to March 31, 2022. HCBS are person-centered care delivered either in the home or the community to support participants who need assistance with everyday activities. States must use the federal funds attributable to the one-year increased FMAP by March 31, 2024 and in addition, states must use state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement the implementation of one or more activities to enhance, expand, or strengthen HCBS under the Medicaid program.

In alignment with ARPA, the Maryland Department of Health (the Department) will use these funds to supplement and not supplant existing HCBS funding. Additionally, the Department will not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services that were in place on April 1, 2021. The Department will also preserve covered HCBS, including the actual services and the amount, duration, and scope of those services, in effect as of April 1, 2021.

HCBS in Maryland

HCBS are operated under various federal authorities including the 1115 waiver, state plan, as well as 1915(c) and 1915(k). Maryland’s HCBS 1915(c) waivers are operated by four different state agencies: the Department’s Office of Long Term Services and Supports (OLTSS), the Department’s Office of Medical Benefit’s Management (MBM), the Behavioral Health Administration (BHA), the Developmental Disabilities Administration (DDA), and the Maryland State Department of Education (MSDE), Please see Table 1 below for an overview of HCBS waiver programs in Maryland.

Table 1. HCBS Programs in Maryland

Program	Authority	Operating State Agency	Program Description
Model Waiver for Medically Fragile Children	1915(c)	OLTSS	The Model Waiver allows medically fragile individuals who would otherwise be hospitalized and are certified as needing either hospital or nursing facility level of care to receive medically necessary and appropriate services in the community.
Community Pathways Waiver	1915(c)	DDA	The Community Pathways Waiver provides comprehensive supports and services to help participants to live more independently in their homes and communities. The program provides a variety of Residential, Meaningful

Program	Authority	Operating State Agency	Program Description
			Day, and Support Services that promote community living, including a self-directed service model and traditional, agency-based service model.
Family Supports Waiver	1915(c)	DDA	The Family Supports Waiver helps participants to live more independently in their homes and communities. The program provides a variety of Support Services that promote community living, including a self-directed service model and traditional, agency-based service model.
Community Supports Waiver	1915(c)	DDA	The Community Supports Waiver helps participants to live more independently in their homes and communities. The program provides a variety of Meaningful Day and Support Services that promote community living, including a self-directed service model and traditional, agency-based service model.
Waiver for Children with Autism Spectrum Disorder	1915(c)	MSDE	<p>Maryland’s HCBS Waiver for Children with Autism Spectrum Disorder allows eligible children with Autism Spectrum Disorder to receive specific services to support them in their homes and communities.</p> <p>Participants must be children with autism ages 2 through 21 who need an intermediate care facility for the intellectually disabled level of care.</p>
Brain Injury Waiver	1915(c)	BHA	Maryland’s Home and Community-Based Services Waiver for Individuals with Brain Injury provides specialized community-based services to adults with brain injuries.
Medical Day Care Services Waiver	1915(c)	OLTSS	Under this waiver, approved medical day care agencies provide health, social, and related support services in an organized setting to individuals aged 16 years and older who reside in the community and who are assessed to need a nursing facility level of care.
Home and	1915(c)	OLTSS	This program provides community-based

Program	Authority	Operating State Agency	Program Description
Community-Based Options Waiver			<p>services and supports that enable older adults and those with physical disabilities to continue living in their own homes or in assisted living facilities.</p> <p>Participants must be 18 years or age or older and meet a nursing facility level of care.</p>
Community First Choice	1915(k)	OLTSS	Community First Choice provides HCBS to older adults and individuals with disabilities who meet an institutional level of care and qualify financially to receive Medicaid in the community.
Community Personal Assistance Services	State Plan	OLTSS	<p>This state plan program provides in-home personal assistance to older adults and individuals with disabilities.</p> <p>To qualify, an individual must meet the financial criteria to receive Medicaid in the community and require assistance to perform activities of daily living.</p>
Increased Community Services (ICS)	1115	OLTSS	Through the ICS Program, the Department continues providing Medicaid State Plan benefits and HCBS to residents ages 18 and over, enabling qualifying individuals to live at home with appropriate supports, as opposed to residing in a nursing facility.
Rare and Expensive Case Management (REM)	1115	MBM	The REM Program is a case-managed fee for service alternative to HealthChoice Managed Care Organization (MCO) participation for recipients with specified rare and expensive conditions.
Program of All-Inclusive Care for the Elderly (PACE)	State Plan	OLTSS	<p>The Program of All-Inclusive Care for the Elderly (PACE) provides comprehensive medical and social services to eligible individuals who live in the community.</p> <p>To participate in PACE, individuals must meet the following criteria: be at least 55 years old; be certified to need a nursing facility level of</p>

Program	Authority	Operating State Agency	Program Description
			care; agree to receive all health and long-term care services from the PACE provider; and have income of no more than 300 percent of the Supplemental Security Income (SSI) benefit level for a household of one person and assets no more than \$2,000.

In collaboration with BHA, the Department also delivers behavioral health services to enrolled participants. This includes services provided under the 1915(i) authority. Based on the State Medicaid Director Letter (SMDL) issued on May 13, 2021, behavioral health services are eligible for the enhanced FMAP.¹

Stakeholder Input

The Maryland General Assembly convened its 2021 session on January 13, 2021 and it adjourned on April 12, 2021. This allowed the State legislature the opportunity to respond to the ARPA.

As a part of the State’s fiscal year 2022 budget, the Department is directed to spend at least 75% of federal funds attained by the Department resulting from any enhancement to the FMAP for HCBS authorized in ARPA only on a one-time rate increase paid to Medicaid home and community-based providers. Any remaining federal funds may be expended only on waiver slot expansion and other efforts to ensure the enhancement, strengthening, and expansion of HCBS.² For programs administered by the DDA, the Act contains similar provisions that require 75% of any federal funds obtained due to an enhanced FMAP be expended on a one-time rate increase to eligible community providers and grants to community providers and nonprofit organizations.³

Requested Policy Changes

The Department requests a provider rate increase, as mandated by state law, effective September 1, 2021. Specifically, the Department plans on increasing HCBS rates by 6.0%. The Department will also increase rates for behavioral health services. Together, these rate increases will result in \$99.8 million additional state dollars spent on HCBS services (\$234.8 million total funds). Enhancing rates for providers improves HCBS by assuring provider stability while enabling providers to raise wages and increase benefits.

¹ SMD #21-003, RE: Implementation of American Rescue Plan Act of 2021 Section 9817: Additional Support for Medicaid Home and Community-Based Services During the COVID-19 Emergency. May 13, 2021. <https://www.medicaid.gov/federal-policy-guidance/downloads/smd21003.pdf>.

² The Maryland Budget Reconciliation and Financing Act of 2021, House Bill 588. Page 106. <http://mgaleg.maryland.gov/2021RS/bills/hb/hb0588E.pdf>.

³ The Maryland Budget Reconciliation and Financing Act of 2021, House Bill 588. Page 103. <http://mgaleg.maryland.gov/2021RS/bills/hb/hb0588E.pdf>.

Additionally, the DDA is requesting a temporary rate increase to providers, investments in infrastructures via the provision of grants, and related administrative expenses in the amount of \$93.6 million total funds.

Data Analysis and Estimated Fiscal Impact

The Department worked with their data warehouse at the Hilltop Institute at University of Maryland Baltimore County (Hilltop) to calculate the impact of the additional federal funding that will be re-invested into HCBS due to the 10% FMAP increase from ARPA.

HCBS Estimates

To calculate the estimated impact of the increased FMAP, Hilltop first identified HCBS billed in the Medicaid Management Information System (MMIS). This included Medicare crossover claims. Hilltop excluded durable medical equipment claims as well as any claims from the Maryland Children’s Health Program (MCHP). Hilltop analyzed the utilization of these providers from Quarter 1 of 2019, Quarter 1 of 2020 and Quarter 1 of 2021. The Quarter 1 2021 numbers were consistent with utilization in previous years, so these numbers were used for the cost calculations.

For each provider type, Hilltop calculated the spending by coverage group category (ACA expansion and other participants). The federal match was applied by coverage group category to the total expenditure amount to estimate the total increase in funds with a 10% increase in FMAP. The enhanced Family First Coronavirus Response Act (FFCRA) 6.2% FMAP was assumed to continue through the time period of the ARPA enhanced match (through March 31, 2022), and the total FMAP for each category was capped at 95% as per the CMS guidance.

Table 2. Current and ARPA Enhanced FMAP Used for Cost Calculations

Coverage Group Category	Current FMAP	ARPA Enhanced FMAP
ACA Expansion	90%	95%
Other	56.2%	66.2%

Hilltop also compiled a list of all procedure codes billed from January 2019 through March 2021 that met the above criteria. Hilltop matched the procedure codes to the most recent fee schedules for home health services and the general physician fee schedule.

The total expenditures for HCBS services in the first quarter of CY 2021 was \$190 million (see Table 3). The total amount of increased federal funds that will be received as a result of the additional 10% ARPA enhanced FMAP will be approximately \$18.8 million per quarter. It is estimated that the total additional federal funds that will be received from April 1, 2021, through March 31, 2022, is \$75.4 million.

Table 3. Total MMIS Payment Amounts, Federal Match, 10% Enhanced Federal Match and Excess Funds for HCBS Services, January to March 2021

	2021 Q1 MMIS Total Payment	At Current Match - Federal Funds	At ARPA Enhanced Match - Federal Funds	Current FMAP	ARPA Enhanced FMAP	Excess 10% for Re- investment
Total	\$190,142,311	\$107,981,332	\$126,828,584	56.80%	66.70%	\$18,847,252

As the \$75.4 million would be matched by federal funds at the current overall match rate (56.8%), the total amount reinvested into rates would need to take this into account. Table 3 shows the total amount that would need to be added to reimbursement rates in order for the state to re-invest \$75.4 million state funds into rates. This initial amount, if spent before the end of the ARPA enhanced matching period (ending March 31, 2022) would also be matched at the additional 10% ARPA enhanced match rate. Table 3 shows the additional 10% FMAP that will be accrued from the increase in rates being matched at the ARPA enhanced match amount, as well as the total funds that would need to be invested into rates for this additional secondary application of the 10% match.

Table 4. State and Total Funds Needed to Re-invest Original and Secondary Federal Match Funds

	Original Re-Investment	Secondary Re-Investment
State Amount	\$75,389,008	\$17,293,801
Federal Match	\$99,081,164	\$22,728,644
Total Amount	\$174,470,172	\$40,022,445

The rate increase percentage indicates the percentage increase in rates needed to spend the total funds within the time period and was calculated using procedure codes identified in the HCBS and physician fee schedule. It was also based on utilization in Q1 of CY 2021. The secondary 10% FMAP state funds amount was calculated by determining the percentage of the total funds that would be spent in the time period from September 1, 2021 to March 31, 2022 and calculating the additional 10% enhanced FMAP for these funds. The total spending amount was calculated by weighting the total amount by the percentage of time that occurred before December 31, 2021 when the 6.2% FMAP enhancement is assumed to be in place.

Overall, the Department would need to increase rates for HCBS by 6.0% by the end of March 2024 in order to spend 75% of the funds (see Table 5). The Department would spend \$122.1 million during the time period, with \$59.1 million coming from state funds and \$63.0 million in federal funds.

Table 5. Funds to Spend and Rate Increases Associated with Spending 75% of HCBS Excess 10% FMAP Funds by Time Period of Rate Increase

	Ending 3/31/2024
State Funds to Spend	\$56,541,756
Total Funds to Spend	\$116,771,614
Rate Increase Percentage	5.7%
Secondary 10% FMAP State Funds	\$2,613,623
Secondary 10% FMAP Total Funds	\$5,397,727
Total Primary + Secondary State Funds	\$59,155,379
Total Primary + Secondary Total Funds	\$122,169,340
Total Rate Increase Percentage	6.0%

Behavioral Health Estimates

For behavioral health services, Hilltop used a similar methodology to HCBS. The analysis also included Q1 2019 and Q1 2020 claims; Q1 2020 and Q1 2021 had approximately 6 million fewer claims each than Q1 2019, but spending was about the same in all three quarters. Hilltop calculated the state funds, total funds, secondary 10% funds and rate increase percentages in the same way as described above for HCBS.

The Department estimates that in the period of the enhanced FMAP ending March 31, 2022, using 75% of the available funds for a rate increase, \$107.1 million would be spent on behavioral health services; \$38.7 million would be in state funds (please see Table 6). By March 31, 2024, the total expenditures will be \$112.7 million, with \$40.7 million coming from state funds.

Table 6. Funds to Spend and Rate Increases Associated with Spending 75% of Behavioral Health Excess 10% FMAP Funds by Time Period of Rate Increase

	Ending 3/31/2024
State Funds to Spend	\$38,701,999
Total Funds to Spend	\$107,108,616
Secondary 10% FMAP State Funds	\$2,017,237

	Ending 3/31/2024
Secondary 10% FMAP Total Funds	\$5,582,746
Total Primary + Secondary State Funds	\$40,719,235
Total Primary + Secondary Total Funds	\$112,691,362

Maryland Developmental Disabilities Administration Programs Estimates

The DDA reinvestment spending plan generally consists of three major categories of spending: temporary rate increase to providers, investments in infrastructures via the provision of grants, and related administrative expenses. These investments are specifically designed to strengthen Medicaid-funded HCBS in the state of Maryland.

Rate Increase: Provide a temporary rate increase for the first two quarters of fiscal 2020 to assist providers recovering from the economic devastation of the COVID-19 pandemic.

Grants to Enhance HCBS

The DDA will provide grants to community providers and nonprofit organizations for the development of resources and infrastructure to enhance independence and inclusive opportunities such as:

- Development of models to provide independent affordable housing, expanded use of technology, and technical assistance from subject matter experts for individuals who receive DDA-Funded services.
- Staffing:
 - Direct Support Professional (DSP) salary increases, retention and sign on bonuses.
 - One time financial assistance for recruitment of additional resources to support the transition to LTSSMaryland reimbursement.
- LTSSMaryland Related Activities:
 - Infrastructure: This is designed to assist providers in making investments in technology systems and other items to strengthen the service delivery network and support providers in the transition to LTSSMaryland.
 - Fee For Service Transition: As DDA continues with our transition from prospective payment to fee-for-service reimbursement supported by LTSSMaryland it is important that providers have the resources (*e.g.*, analytical and assessment tools) to invest in enhanced business models to support the service delivery system.
- Nonprofit organizations contracted by the DDA to provide indirect services that enhance HCBS Participants’ independence and inclusive opportunities, such as the Special Olympics.

HCBS Related Administrative Expenses

Administrative costs will be no more than 5% of federal funds attained by DDA, and will be expended on expenses related to grant administration and expediting new placements in HCBS and to improve the processing of person-centered plans.

Table 7. State Reinvestment Funds to Spend on Rate Increases and Grants Associated with of Developmental Disabilities Administration*

Activity	Total 10% Reinvestment
Rate Increase	\$79.6M
Grants	\$10M
Administrative	\$4M
Total	\$93.6M

*Figures Show State Reinvestment. Funds will be federally matched.

Conclusion and Next Steps

Moving forward, the Department will continue to refine and develop its spending plan with input from the broader HCBS stakeholder community. Future quarterly spending plans will detail additional initiatives and highlight how these investments will impact HCBS participants. The Department looks forward to working with CMS to implement these proposed changes.