Medicaid Expansion Budget Language

Passed by the Virginia General Assembly

Wednesday, May 30, 2018

To be signed by Governor Northam on June 7, 2018

Chief Patron: Hanger Item 306 #2s Health and Human Resources - Department of Medical Assistance Services

Introduction

This budget amendment adds language to provide authority for the Department of Medical Assistance Services (DMAS) to seek approval from the Centers for Medicare and Medicaid (CMS) to enhance Medicaid coverage to certain low-income individuals pursuant to the federal Patient Protection and Affordable Care Act (ACA) within 45 days of the effectiveness of this act. Language requires DMAS to seek federal approval for a State Plan amendment, while simultaneously seeking approval for a Medicaid demonstration waiver to promote efficiency, accountability, personal responsibility, and competitive, value-based purchasing of health care to provide a model of health coverage for participants that is fiscally sustainable and cost effective.

The demonstration waiver requires the development of ***a premium assistance program for individuals between 100% and 138% of the federal poverty level***. It provides for a ***robust benefit package which includes mental health services and addiction recovery and treatment services.*** The premium assistance program would include the development of a health and wellness account for eligible individuals comprised of individual contributions and state funding, monthly individual contributions based on a sliding scale not to exceed two percent of monthly income, provisions for the date coverage begins, provisions for a grace period followed by a waiting period prior to re-enrollment if the premium is not paid, and provisions to recover premium payments owed through debt set-off collections.

The waiver also requires **cost sharing** to encourage personal responsibility for individuals with ***incomes between 100% and 138% of the federal poverty level***. However, individuals meeting

one of ten exemptions to the Medicaid Training, Education, Employment, and Opportunity Program (TEEOP) would not be subject to cost sharing requirements more stringent than existing Medicaid law or regulations. Enrollees who comply with provisions of the demonstration program, including engaging in healthy behaviors, may receive a decrease in their monthly premiums and copayments, not to exceed 50 percent.

Individuals with ***incomes between 0 and 100% of the federal poverty level would be enrolled in existing Medicaid private managed care plans with existing Medicaid benefits***, subject to existing Medicaid cost sharing requirements.

The language includes requirements that the demonstration waiver engage individuals enrolled in Medicaid in the ***TEEOP*** to enable them to increase their health and well-being through community engagement leading to self-sufficiency. Individuals meeting certain exemptions would not be subject to the TEEOP requirements, however, individuals who do not meet the TEEOP requirements three months out of a 12-month period beginning with the first day of enrollment would be ***disenrolled*** from the program and will not be permitted to re-enroll until the end of such 12-month period, unless the failure to comply or report compliance was the result of a catastrophic event or circumstances beyond the beneficiary's control. However, the individual may re-enroll in the program upon demonstration of compliance with TEEOP requirements.

Language also directs the agency to develop a supportive employment and housing benefit for certain high risk Medicaid beneficiaries.

Language is also added to require both the State Plan amendments and demonstration waiver application to include systems for determining eligibility for participation in the program, ***provisions for disenrollment if federal funding is reduced or terminated and an evaluation component for the project***.

DMAS Authority to Modify State Medicaid Program

4.a. Notwithstanding § 30-347, Code of Virginia, or any other provision of law, no later than 45 days upon the passage of House Bill 5001, the Department of Medical Assistance Services shall have the authority to (1) amend the State Plan for Medical Assistance under Title XIX of the Social Security Act, and any waivers thereof, to implement coverage for newly eligible individuals pursuant to 42 U.S.C. §

1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act and (2) begin the process of implementing a § 1115 demonstration project to transform the Medicaid program for newly eligible individuals pursuant to the provisions of 4.a.(1) **and eligible individuals enrolled in the existing Medicaid program.**

DMAS Timeline – GO LIVE January 1, 2019

No later than 150 days (October 30, 2018) from the passage of House Bill 5001 (passed May 30, 2018), DMAS shall submit the § 1115 demonstration waiver application to CMS for approval. If the State Plan amendments are affirmatively approved by CMS prior to the submission of the waiver, Medicaid coverage for newly eligible individuals may be implemented. If the State Plan amendment becomes effective without affirmative action by CMS, coverage may begin upon submission of the completed § 1115 demonstration waiver application, per CMS notification, **but no later than January 1, 2019**. If the demonstration waiver cannot be completed by 150 days, despite a good faith effort to complete the application, the department may request an extension from the Chairmen of the House Appropriations and Senate Finance Committees. The department shall provide updates on the progress of the State Plan amendments and demonstration waiver applications to the Chairmen of the House Appropriations and Senate Finance Committees, or their designees, upon request, and provide for participation in discussions with CMS staff. The department shall respond to all requests for information from CMS on the State Plan amendments and demonstration waiver applications in a timely manner.

b. At least 10 days prior to the submission of the application for the waiver of Title XIX of the Social Security Act, the department shall notify the Chairmen of the House Appropriations and Senate Finance Committees of such pending application and provide a copy of the application. If the department receives an official letter from either Chairman raising an objection about the waiver during the 10-day period, the department shall make all reasonable attempts to address the objection and modify the waiver(s). If the department receives no objection, then the application may be submitted. Any waiver specifically authorized elsewhere in this item is not subject to this provision. Waiver renewals are not subject to the provisions of this paragraph.

Job Requirements as Condition for Medicaid

c. The Department of Medical Assistance Services shall include provisions to make referrals to job training, education and job placement assistance for all unemployed, able-bodied adult enrollees as allowed under current federal law or regulations through the State Plan amendments, contracts, or other policy changes. DMAS shall also include provisions to foster personal responsibility and prepare newly eligible enrollees for participation in commercial health insurance plans to include use of private health plans, premium support for employer- sponsored insurance, health and wellness accounts, appropriate utilization of hospital emergency room services, healthy behavior incentives, and enhanced fraud prevention efforts, among others through the State Plan amendments, contracts, or other policy changes.

Individual Empowerment

d. The demonstration project shall be designed to empower individuals to improve their health and well-being and gain employer sponsored coverage or other commercial health insurance coverage, while simultaneously ensuring the program's long-term fiscal sustainability.

Benefits

The demonstration project shall include the following elements in the design:

(i) two pathways for eligible individuals with incomes **between 100 percent and 138 percent** of the federal poverty level, including income disregards, to obtain health care coverage: enrollment in an existing Medicaid managed care plan, or premium assistance for the purchase of employer-sponsored health insurance coverage if cost effective. **The plans will provide a comprehensive benefit package consistent with private market plans, compliant with all mandated essential health benefits, and inclusive of current Medicaid covered mental health and addiction recovery and treatment services.**

The demonstration shall include:

(1) the **development of a health and wellness account for eligible individuals**, comprised of participant contributions and state funds to be used to fund the health insurance premiums and to ensure funds are available for the enrollee to cover out-of-pocket expenses for the deductible, with the ability to roll over the funds from the account into succeeding years if not fully used. The monthly premium amount for the enrollee shall be set on a sliding scale based on monthly income, not to exceed two percent of monthly income, nor be less than $1 per month;

(2) provisions for demonstration **coverage to begin on the first day of the month** following receipt of the premium payment or enrollment due to treatment of an acute illness;

(3) provisions for institution of a **grace period for premium payment**, followed by a waiting period before re-enrollment if the premium is not paid by the participant or if the participant does not maintain continuous coverage; and

(4) provisions to **recover premium payments** owed to the Commonwealth through debt set-off collections;

(ii) provisions to enroll **newly eligible individuals with incomes between 0 and 100 percent** of the federal poverty level, including income disregards, in existing Medicaid managed care plans with existing Medicaid benefits or in employer-sponsored health insurance plans, if cost effective. Such newly eligible enrollees shall be subject to existing Medicaid cost sharing provisions;

(iii) **cost-sharing for eligible enrollees with incomes between 100 percent and 138 percent** of the federal poverty level, including income disregards, designed to promote healthy behaviors such as the avoidance of tobacco use, and to encourage personal responsibility and accountability related to the utilization of health care services such as the appropriate use of emergency room services. However, such individuals who also meet the exemptions listed in (iv) shall not be subject to premium and copayment requirements more stringent than existing Medicaid law or regulations. *Enrollees who comply with provisions of the demonstration program, including healthy behavior provisions, may receive a decrease in their monthly premiums and copayments, not to exceed 50 percent.*

Training, Education, Employment and Opportunity Program "TEEOP" (requirements for Medicaid)

(iv) the establishment of the **Training, Education, Employment and Opportunity Program (TEEOP)** for **every able-bodied, working-age adult enrolled in the Medicaid** program to enable enrollees to increase their health and well-being through community engagement leading to self-sufficiency.

The TEEOP shall comply with guidance from CMS regarding such programs and may include other exemptions that may be necessary to achieve the TEEOP's goals of community engagement and improved health outcomes that are approved by CMS. The TEEOP shall include provisions for gradually escalating participation in training, education, employment and community engagement opportunities through the program as follows:

a. beginning three months after enrollment, at least 20 hours per month;

b. beginning six months after enrollment, at least 40 hours per month;

c. beginning nine months after enrollment, at least 60 hours per month; and

d. beginning 12 months after enrollment, at least 80 hours per month;

The TEEOP shall also include provisions for satisfaction of the requirement for participation in training, education, employment and community engagement opportunities through participation in job skills training; job search activities in conformity with Virginia Employment and Commission guidelines; education related to employment; general education, including participation in a program of preparation for the General Education Development (GED) certification examination or community college courses leading to industry certifications or a STEM-H related degree or credential; vocational education and training; subsidized or unsubsidized employment; community work experience programs, community service or public service, excluding political activities, that can reasonably improve work readiness; or caregiving services for a non-dependent relative or other person with a chronic, disabling health condition.

The TEEOP shall work with Virginia Workforce Centers or One-Stops to provide services to Medicaid enrollees. Such services shall include career services for program enrollees, services to link enrollees with industry certification and credentialing programs, including the New Economy Workforce Credential Grant Program, and individualized case management services.

The TEEOP shall, to the extent allowed under federal law, utilize federal and state funding available through the Centers for Medicare and Medicaid Services, Temporary Assistance for Needy Families program, the Supplemental Nutrition Assistance Program, the Workforce Innovation and Opportunity Act, and other state and federal workforce development programs to support program enrollees.

Unless exempt*, enrollees shall be ineligible to receive Medicaid benefits if, during any three months of the 12-month period beginning on the first day of enrollment, they fail to meet the TEEOP requirements and they will not be permitted to re-enroll until the end of such 12-month period, unless the failure to comply or report compliance was the result of a catastrophic event* or circumstances beyond the beneficiary's control. However, enrollees shall be eligible to re- enroll in the program within such 12-month period upon demonstration of compliance with the TEEOP requirements.

Exemptions from TEEOP

The TEEOP program shall not apply to: (1) children under the age of 18 or individuals under the age of 19 who are participating in secondary education;

(2) individuals age 65 years and older;

(3) individuals who qualify for medical assistance services due to blindness or disability, including individuals who receive services pursuant to a § 1915 waiver;

(4) individuals residing in institutions;

(5) individuals determined to be medically frail;

(6) individuals diagnosed with serious mental illness;

(7) pregnant and postpartum women;

(8) former foster children under the age of 26;

(9) individuals who are the primary caregiver for a dependent, including a dependent child or adult dependent with a disability; and

(10) individuals who already meet the work requirements of the TANF or SNAP programs. The department may waive the requirement for participation in employment in areas of the Commonwealth with unemployment rates equal to or greater than 150 percent of the statewide average; however, requirements related to training, education and other community engagement opportunities shall not be waived in any area of the Commonwealth.

(v) monitoring and oversight of the use of health care services to ensure appropriate utilization;

Supportive Services for High Risk Populations

(vi) The Department of Medical Assistance Services shall develop a supportive employment and housing benefit targeted to **high risk Medicaid beneficiaries with mental illness, substance use disorder, or other complex, chronic conditions** who need intensive, ongoing support to obtain and maintain employment and stable housing.

Eligibility & Enrollment & Disenrollment

The State Plan amendment and the demonstration waiver program shall include:

(i) systems for determining eligibility for participation in the program,
(ii) provisions for disenrollment if federal funding is reduced or terminated, and
(iii) provisions for monitoring, evaluating, and assessing the effectiveness of the waiver program in improving the health and wellness of program participants and furthering the objectives of the Medicaid program.

f. The department shall have the authority to promulgate emergency regulations to implement these changes within 280 days or less from the enactment date of House Bill 5001. The department shall have the authority to implement these changes prior to the completion of any regulatory process undertake in order to effect such changes."