



COMMONWEALTH of VIRGINIA
Office of the Governor

Janet Vestal Kelly
Secretary of Health and Human Resources

October 21, 2024

Todd McMillion
Director
Department of Health and Human Services
Centers for Medicare and Medicaid Services
233 North Michigan Ave., Suite 600
Chicago, Illinois 60601

Dear Mr. McMillion:

Attached for your review and approval is amendment 24-0009, entitled "Supplemental Payments to Private Hospitals for Physician Services" to the Plan for Medical Assistance for the Commonwealth. I request that your office approve this change as quickly as possible.

Sincerely,

A handwritten signature in blue ink that reads "Janet V. Kelly".

Janet V. Kelly

Attachment

cc: Cheryl J. Roberts, Director, Department of Medical Assistance Services
CMS, Region III

Transmittal Summary

SPA 24-009

I. IDENTIFICATION INFORMATION

Title of Amendment: Supplemental Payments to Private Hospitals for Physician Services

II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Purpose: In accordance with the Item 288.OO.9.a-c of the 2024 Appropriations Act, this SPA makes supplemental payments to private hospitals and related health systems who intend to execute affiliation agreements with public entities that are capable of transferring funds to the department for purposes of covering the non-federal share of the authorized payments. Virginia community colleges, Virginia public institutions of higher education, local governments, and instrumentalities of local government are public entities that are authorized to transfer funds to the department for purposes of covering the non-federal share of the authorized payments. Such public entities would enter into an Interagency Agreement with the department for this purpose.

The department shall have the authority to make the supplemental payments to private hospitals for physician services effective July 1, 2024. No payment shall be made without approval from CMS and an Interagency Agreement with a public entity capable of transferring the non-federal share of authorized payments to the department. The funds to be transferred must comply with 42 CFR 433.51 and 433.54. Such funds may not be paid from any private agreements with public entities that are in excess of fair market value or that alleviate preexisting financial burdens of such public entities. Public entities are authorized to use general fund dollars to accomplish this transfer. As part of the Interagency Agreements the department shall require the public entities to attest to compliance with applicable CMS criteria. The department shall also require any private hospital and related health systems receiving payments under this section to attest to compliance with applicable CMS criteria. Upon notification by the Department of any deferral or disallowance issued by CMS regarding the supplemental or managed care directed payment arrangement, the hospital provider will return the entire balance of the payment to the Department within 30 days of notification. If the hospital does not return the entire balance of the payment to the Department within the specified timeframe, a judgement rate of interest set forth in Title 6.2-302 will be applied to the entire balance, regardless of whatever portion has been repaid. In addition, the non-federal share of the agency's administrative costs directly related to administration of the programs authorized in this paragraph, including staff and contractors, shall be funded by participating public entities. These funds shall be deposited into a special fund created by the Comptroller and used to support the administrative costs associated with managing this program. Any funds received for this purpose but unexpended at the end of the fiscal year shall remain in the fund for use in accordance with this provision.

The purposes to which the additional payments authorized above shall be applied include: (i) increasing and enhancing access to outpatient care for Medicaid recipients; (ii) stabilizing and supporting critical healthcare workforce needs; and (iii) advancing the department's health and quality improvement goals; these shall contain specific measurable outcomes that will be approved, and monitored by the Department quarterly. Payment shall be dependent on progress towards goal attainment on all three purposes. Participating organizations must submit quarterly updates and annual reports on programs to the Department no later than October 1.

Substance and Analysis: The section of the State Plan that is affected by this amendment is “Methods and Standards for Establishing Payment Rate-Other Types of Care”

Impact: The expected increase in annual aggregate fee-for-service expenditures is \$2,255,770 in state general funds and \$2,346,903 in federal fiscal year 2025. The expected increase in annual aggregate fee-for-service expenditures is \$2,291,211 in state general funds and \$2,311,462 in federal funds in federal fiscal year 2026.

Tribal Notice: Please see attached.

Prior Public Notice: See Attached

Public Comments and Agency Analysis: Please see attached.




Tribal Notice – Supplemental Payments to Private Hospitals for Physician Services

From Lee, Meredith (DMAS) <Meredith.Lee@dmas.virginia.gov>

Date Tue 10/8/2024 12:19 PM

To TribalOffice@MonacanNation.com <TribalOffice@MonacanNation.com>; Ann Richardson <chiefannerich@aol.com>; pamelathompson4@yahoo.com (pamelathompson4@yahoo.com) <pamelathompson4@yahoo.com>; rappahannocktrib@aol.com (rappahannocktrib@aol.com) <rappahannocktrib@aol.com>; regstew007@gmail.com (regstew007@gmail.com) <regstew007@gmail.com>; Gray, Robert <robert.gray@pamunkey.org>; Adrian Compton <tribaladmin@monacannation.com>; chiefstephenadkins@gmail.com (chiefstephenadkins@gmail.com) <chiefstephenadkins@gmail.com>; bradbybrown@gmail.com (bradbybrown@gmail.com) <bradbybrown@gmail.com>; tabitha.garrett@ihs.gov (tabitha.garrett@ihs.gov) <tabitha.garrett@ihs.gov>; kara.kearns@ihs.gov (kara.kearns@ihs.gov) <kara.kearns@ihs.gov>; ReBecca.Robinson@ihs.gov <ReBecca.Robinson@ihs.gov>; davehennaman@gmail.com <davehennaman@gmail.com>; administrator@nansemond.gov <administrator@nansemond.gov>; info@afwellness.com <info@afwellness.com>; info@fishingpointhc.com <info@fishingpointhc.com>; contact@Nansemond.gov <contact@Nansemond.gov>; brandon.custalow@mattaponination.com <brandon.custalow@mattaponination.com>; admin@umitribe.org <admin@umitribe.org>; Reels-Pearson, Lorraine (IHS/NAS/AO) <Lorraine.Reels-Pearson@ihs.gov>

 1 attachments (223 KB)

Tribal Notice Letter, signed by CR.pdf;

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid Director Cheryl Roberts indicating that the Department of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services. This SPA will allow DMAS to make supplemental payments to private hospitals for physician services.

If you would like a copy of the SPA documents or proposed text changes, or if you have any questions, please let us know.

Thank you! -- Meredith Lee

Meredith Lee
Policy, Regulations, and Manuals Supervisor
Policy Division
Department of Medical Assistance Services
meredith.lee@dmas.virginia.gov, (804) 371-0552
Hours: 7:00 am - 3:30 pm (Monday-Friday)
www.dmas.virginia.gov





COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

CHERYL J. ROBERTS
DIRECTOR

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
800/343-0634 (TDD)
www.dmas.virginia.gov

October 8, 2024

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment related to Supplemental Payments to Private Hospitals for Physician Services.

Dear Tribal Leader and Indian Health Programs:

This letter is to notify you that the Department of Medical Assistance Services (DMAS) is planning to amend the Virginia State Plan for Medical Assistance with the Centers for Medicare and Medicaid Services (CMS). Specifically, DMAS is providing you notice about a State Plan Amendment (SPA) that the Agency will file with CMS in order to comply with Item 288.OO.9.a-c of the 2024 Appropriations Act.

Specifically, this SPA makes supplemental payments to private hospitals and related health systems who intend to execute affiliation agreements with public entities that are capable of transferring funds to the department for purposes of covering the non-federal share of the authorized payments. Virginia community colleges, Virginia public institutions of higher education, local governments, and instrumentalities of local government are public entities that are authorized to transfer funds to the department for purposes of covering the non-federal share of the authorized payments. Such public entities would enter into an Interagency Agreement with the department for this purpose.

The department shall have the authority to make the supplemental payments to private hospitals for physician services effective July 1, 2024. No payment shall be made without approval from CMS and an Interagency Agreement with a public entity capable of transferring the non-federal share of authorized payments to the department. The funds to be transferred must comply with 42 CFR 433.51 and 433.54. Such funds may not be paid from any private agreements with public entities that are in excess of fair market value or that alleviate preexisting financial burdens of such public entities. Public entities are authorized to use general fund dollars to accomplish this transfer. As part of the Interagency Agreements the department shall require the public entities to attest to compliance with applicable CMS criteria. The department shall also require any private hospital and related health systems receiving payments under this section to attest to compliance with applicable CMS criteria. Upon notification by the Department of any deferral or disallowance issued by CMS regarding the supplemental or managed care directed payment arrangement, the hospital provider will return the entire balance of the payment to the Department within 30 days of notification. If the hospital does not return the entire balance of the payment to the Department within the specified timeframe, a judgement rate of interest set forth in Title 6.2-302 will be applied to the entire balance, regardless of whatever portion has been repaid. In addition, the non-federal share of the agency's administrative costs directly related to administration of the programs authorized in this paragraph, including staff and contractors, shall be funded by participating public entities. These funds shall be deposited into a special fund created by the Comptroller and used to support the administrative costs associated with managing

this program. Any funds received for this purpose but unexpended at the end of the fiscal year shall remain in the fund for use in accordance with this provision.

The purposes to which the additional payments authorized above shall be applied include: (i) increasing and enhancing access to outpatient care for Medicaid recipients; (ii) stabilizing and supporting critical healthcare workforce needs; and (iii) advancing the department's health and quality improvement goals; these shall contain specific measurable outcomes that will be approved, and monitored by the Department quarterly. Payment shall be dependent on progress towards goal attainment on all three purposes. Participating organizations must submit quarterly updates and annual reports on programs to the Department no later than October 1.

We realize that the changes in this SPA may impact Medicaid members and providers, including tribal members and providers. Therefore, we encourage you to let us know if you have any comments or questions. The tribal comment period for this SPA is open through November 7, 2024. You may submit your comments directly to Meredith Lee, DMAS Policy Division, by phone (804) 371-0552, or via email: Meredith.Lee@dmas.virginia.gov. Finally, if you prefer regular mail you may send your comments or questions to:

Virginia Department of Medical Assistance Services
Attn: Meredith Lee
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cheryl J. Roberts', written in a cursive style.

Cheryl J. Roberts, JD
Director



Agency

Department of Medical Assistance Services

Board

Board of Medical Assistance Services

[Edit Notice](#)

General Notice

Public Notice - Intent to Amend State Plan - Supplemental Payments to Private Hospitals for Physician Services

Date Posted: 8/28/2024

Expiration Date: 2/28/2025

Submitted to Registrar for publication: YES

[30 Day Comment Forum](#) closed. Began on 8/28/2024 and ended 9/27/2024

**LEGAL NOTICE
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
NOTICE OF INTENT TO AMEND**

(Pursuant to §1902(a)(13) of the *Act (U.S.C. 1396a(a)(13))*)

THE VIRGINIA STATE PLAN FOR MEDICAL ASSISTANCE

This Notice was posted on August 28, 2024

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the *Methods and Standards for Establishing Payment Rates — Other Types of Care (12 VAC 30-80)*.

This notice is intended to satisfy the requirements of 42 C.F.R. § 447.205 and of § 1902(a)(13) of the *Social Security Act*, 42 U.S.C. § 1396a(a)(13). A copy of this notice is available for public review from Meredith Lee, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, or via e-mail at: Meredith.Lee@dmas.virginia.gov.

DMAS is specifically soliciting input from stakeholders, providers and beneficiaries, on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Meredith Lee and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Town Hall public comment forum attached to this notice.

This notice is available for public review on the Regulatory Town Hall (<https://townhall.virginia.gov>) on the General Notices page, found at: <https://townhall.virginia.gov/L/generalnotice.cfm>

In accordance with the Item 288.OO.9.a-c of the 2024 Appropriations Act, DMAS will be making the following changes:

Methods & Standards for Establishing Payment Rates - Other Types of Care (12 VAC 30-80)

The state plan is being revised to make supplemental payments to private hospitals and related health systems who intend to execute affiliation agreements with public entities that are capable of transferring funds to the department for

purposes of covering the non-federal share of the authorized payments. Virginia community colleges, Virginia public institutions of higher education, local governments, and instrumentalities of local government are public entities that are authorized to transfer funds to the department for purposes of covering the non-federal share of the authorized payments. Such public entities would enter into an Interagency Agreement with the department for this purpose.

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The expected increase in annual aggregate fee-for-service expenditures is \$2,255,770 in state general funds and \$2,346,903 in federal fiscal year 2025. The expected increase in annual aggregate fee-for-service expenditures is \$2,291,211 in state general funds and \$2,311,462 in federal funds in federal fiscal year 2026.

Contact Information

| | |
|-----------------------|--|
| Name / Title: | Meredith Lee / <i>Policy, Regulations, and Manuals Supervisor</i> |
| Address: | Policy Division, DMAS 600 East Broad Street, Suite 1300 Richmond, 23219 |
| Email Address: | Meredith.Lee@dmas.virginia.gov |
| Telephone: | (804)371-0552 FAX: (804)786-1680 TDD: (800)343-0634 |

This general notice was created by Meredith Lee on 08/28/2024 at 6:55am



Public comment forums

Make your voice heard! Public comment forums allow all Virginia's citizens to participate in making and changing our state regulations.

[See our public comment policy](#)

Currently showing **5** comment forums closed within the last 38 days for the Department of Medical Assistance Services.

[Recently closed](#)
[Recently opened](#)
[Active Forums](#)
[More filter options](#)

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|---|--|--|
| Regulatory Activity Forums (3) | | Guidance Document Forums (2) |
| Actions (1) | Periodic Reviews () | Petitions for Rulemaking () General Notices (2) |
| Board of Medical Assistance Services | | |
| View Comments | Public Notice - Intent to Amend State Plan - Supplemental Payments to Private Hospitals for Physician Services | General Notice Public Notice - Intent to Amend State Plan - Supplemental Payments to Private Hospitals for Physician Services Closed: 9/27/24 0 comments |

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE-
OTHER TYPES OF CARE**

20. Supplemental Payment for physicians associated with private hospitals and related health systems for the purpose of enhancing access, stabilizing workforce and meeting other department quality goals.

1. Qualifying Criteria

Physician practice plans that are a component of a private health systems, as specified in 2 below, will qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the hospital system must be private and meet one of the following criteria:

- a. Physicians employed by or contracted by a private acute care type 2 hospital system with at least one level 2 trauma center as of January 2022 located in Lord Fairfax Health District and Northwest Health Planning Region.
- b. Physicians employed by or contracted with a private acute care type 2 hospital system with at least one level 2 trauma center as of January 2022 with at least 290 beds in cost report period 2020 located in the Eastern Health Planning Region.
- c. Physicians employed by or contracted with an acute care hospital chain with a level one trauma center in the Tidewater Metropolitan Statistical Area (MSA) in 2020.
- d. Physicians employed by or contracted with an acute care type 2 hospital system with a hospital located in the Lenowisco Health District.
- e. Physicians employed by or contracted with an acute care type 2 hospital system with a level one trauma center as of January 2022 with over 450 beds as of the 2020.

2. Qualifying Practitioner Types

Physicians

3. Payment Methodology

The supplemental payment amount shall be the difference between the Medicaid payments otherwise made for physician services and the Medicare equivalent of the average commercial rate (ACR) percentage times the Medicare rates. The methodology for determining the Medicare Equivalent of the Average Commercial Rate is described in Supplement 6, Attachment 4.19-B.

4. Effective Date of Payment

The supplemental payment will be made effective for services paid on or after October 1, 2024. Supplemental payments shall be made quarterly, no later than 90 days after the end of the quarter.

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 4 — 0 0 0 9

2. STATE

V A

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

10/1/2024

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR Part 447

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2025 \$ 2,346,903
b. FFY 2026 \$ 2,311,462

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-B, new page 7.1.2

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

N/A

9. SUBJECT OF AMENDMENT

Supplemental Payments to Private Hospitals for Physician Services

10. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:
Secretary of Health and Human Resources

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME
Cheryl J. Roberts

13. TITLE
Agency Director

14. DATE SUBMITTED
10/08/24

15. RETURN TO

Department of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Policy, Regulations, and Manuals Supervisor

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

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