



COMMONWEALTH of VIRGINIA
Office of the Governor

Janet Vestal Kelly
Secretary of Health and Human Resources

August 26, 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 24-0013, entitled "Nursing Facility Value-Based Purchasing Program" 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 24-013

I. IDENTIFICATION INFORMATION

Title of Amendment: Nursing Facility Value-Based Purchasing Program

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: This SPA will allow DMAS to revise the nursing facility (NF) value-based purchasing (VBP) program for year three of the program.

In accordance with the General Assembly, DMAS revised the state plan in 2022 and 2023 to establish a unified, value-based purchasing (VBP) program that included enhanced funding for nursing facilities that meet or exceed performance and/or improvement thresholds as developed, reported, and consistently measured by DMAS in cooperation with participating facilities. During the first year of the program, half of the available funding was distributed to participating nursing facilities to be invested in functions, staffing, and other efforts necessary to build their capacity to enhance the quality of care furnished to Medicaid members. This funding was administered as a Medicaid rate add-on. The remaining funding was allocated based on performance criteria as designated under the nursing facility VBP program. During the second year of the program, the amount of funding devoted to nursing facility quality of care investments was 25 percent of available funding.

In accordance with Item 288.QQQ.2.b of the 2024 Appropriations Act, DMAS is amending the state plan for the third year of the nursing facility VBP program. During the third year of the program, participating nursing facilities will no longer receive the Medicaid rate add-on payment, and 100 percent of payments will be disbursed to participating nursing facilities that qualify for the enhanced funding based on performance criteria. Therefore, the sentences on page 26.5.1 and 57 of Supplement 1 to Attachment 4.19-D of the state plan that reference the add-on payment are being removed.

Substance and Analysis: The section of the State Plan that is affected by this amendment is "Methods & Standards for Establishing Payment Rates-Long-Term Care"

Impact: There is no expected increase or decrease in annual aggregate fee-for-service expenditures in federal fiscal year 2024. The expected increase in annual aggregate fee-for-service expenditures is \$911,586 in state general funds and \$948,414 in federal funds in federal fiscal year 2025. (Participating nursing facilities will no longer receive the Medicaid rate add-on payment. These payments will all go toward the payment nursing facilities can earn based on their performance.)

Tribal Notice: Please see attached.

Prior Public Notice: See Attached.

Public Comments and Agency Analysis: Please see attached.

Tribal Notice – Nursing Facility Value-Based Purchasing Program

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

Fri 7/26/2024 10:04 AM

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 (170 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 for year three of the Nursing Facility Value-Based Purchasing program.

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

July 26, 2024

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment related to the Nursing Facility Value-Based Purchasing Program.

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 revise the Nursing Facility Value-Based Purchasing Program for year three of the program, in accordance with Item 288.QQQ.2.b of the 2024 Appropriations Act. During the third year of the program, participating nursing facilities will no longer receive the Medicaid rate add-on payment, and 100 percent of payments will be disbursed to participating nursing facilities that qualify for the enhanced funding based on performance criteria. Therefore, the sentences on page 26.5.1 and 57 of Supplement 1 to Attachment 4.19-D of the state plan that reference the add-on payment are being removed.

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 August 25, 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".

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 - Nursing Facility Value-Based Purchasing Program

Date Posted: 5/24/2024

Expiration Date: 11/24/2024

Submitted to Registrar for publication: YES

[30 Day Comment Forum](#) closed. Began on 5/24/2024 and ended 6/23/2024

**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 May 24, 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 – Long-Term Care (12 VAC 30-90)*.

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>

Methods & Standards for Establishing Payment Rates-Long-Term Care (12 VAC 30-90)

In accordance with the General Assembly, DMAS revised the state plan in 2022 and 2023 to establish a unified, value-based purchasing (VBP) program that includes enhanced funding for nursing facilities that meet or exceed performance and/or improvement thresholds as developed, reported, and consistently measured by DMAS in cooperation with participating facilities. During the first year of the program, half of the available funding was distributed to participating nursing facilities to be invested in functions, staffing, and other efforts necessary to build

their capacity to enhance the quality of care furnished to Medicaid members. This funding was administered as a Medicaid rate add-on. The remaining funding was allocated based on performance criteria as designated under the nursing facility VBP program. During the second year of the program, the amount of funding devoted to nursing facility quality of care investments was 25 percent of available funding.

In accordance with Item 288.QQQ.2.b of the 2024 Appropriations Act, DMAS is amending the state plan for the third year of the nursing facility VBP program. During the third year of the program, 100 percent of payments will be disbursed to participating nursing facilities that qualify for the enhanced funding based on performance criteria.

There is no expected increase or decrease in annual aggregate fee-for-service expenditures in federal fiscal year 2024. The expected increase in annual aggregate fee-for-service expenditures is \$911,586 in state general funds and \$948,414 in federal funds in federal fiscal year 2025.

Contact Information

Name / Title:	Meredith Lee / <i>Policy, Regulations, and Manuals Supervisor</i>
Address:	Division of Policy and Research 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 05/24/2024 at 8:05am



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 **14** comment forums closed within the last 45 days for the Board of Medical Assistance Services.

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

Regulatory Activity Forums (12)	Guidance Document Forums (2)
Actions (3) Periodic Reviews () Petitions for Rulemaking () General Notices (9)	
Board of Medical Assistance Services	

<u>View Comments</u>	Public Notice - Intent to Amend State Plan - Nursing Facility Value-Based Purchasing Program	<u>General Notice</u> Public Notice - Intent to Amend State Plan - Nursing Facility Value-Based Purchasing Program Closed: 6/23/24 0 comments
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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES FOR LONG-TERM CARE

- i. Resource Utilization Group (RUG) is a resident classification system that groups nursing facility residents according to resource utilization and assigns weights related to the resource utilization for each classification. The department shall use RUGs to determine facility case-mix for cost neutralization as defined in 12 VAC 30-90-306 in determining the direct costs in setting the price and for adjusting the claim payments for residents.
 - a. The department shall neutralize direct costs per day in the base year using the most current RUG grouper applicable to the base year.
 - b. The department shall utilize RUG-III, version 34 groups and weights in fiscal years 2015 through 2017 for claim payments.
 - c. Beginning in fiscal year 2018, the department shall implement RUG-IV, version 48 Medicaid groups and weights for claim payments.
 - d. RUG-IV, version 48 weights used for claim payments will be normalized to RUG-III, version 34 weights as long as base year costs are neutralized by the RUG-III 34 group. In that the weights are not the same under RUG-IV as under RUG-III, normalization will ensure that total direct operating payments using the RUG-IV 48 weights will be the same as total direct operating payments using the RUG-III 34 grouper.
- ~~m. DMAS shall increase nursing facility per diem rates by \$6.13 per day effective July 1, 2023.~~

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES FOR LONG-TERM CARE

12. Pediatric unit capital cost. Pediatric unit capital costs will be reimbursed in accordance with subdivision 9 of this section, except that the occupancy requirement shall be 70% rather than the required occupancy percentage.

13. The cost reporting requirements of 4.19-D, Supp 1, page 35 (12 VAC 30-90-70) and 4.19-D, Supp 1, page 37 (12 VAC 30-90-80) shall apply to specialized care providers.

14. Effective July 1, 2020 through June 30, 2023, specialized care operating rates shall be increased by inflating the 2020 rates based on the section of the state plan called the Nursing Facility Price Based Payment Methodology, which starts on page 26.2 of 4.19D, Supplement 1. After state fiscal year 2023, the rates shall revert to the existing prospective methodology.

~~15. DMAS shall increase nursing facility per diem rates by \$6.13 per day effective July 1, 2023.~~

12 VAC 30-90-265. Reserved.

12VAC30-90-266. Traumatic Brain Injury (TBI) payment.

DMAS shall provide a fixed per day payment for nursing facility residents with TBI served in the program in accordance with resident and provider criteria, in addition to the reimbursement otherwise payable under the provisions of the Nursing Home Payment System. Effective for dates of service on and after August 19, 1998, a per day rate add-on shall be paid for recipients who meet the eligibility criteria for these TBI payments and who are residents in a designated nursing facility TBI unit of 20 beds or more that meets the provider eligibility criteria. The rate add-on for any qualifying provider's fiscal year shall be reviewed annually to determine the appropriateness of the amount, not to exceed \$50 per patient day, and any changes will be published and distributed to the providers. (Refer to NHPS, Appendix VII, page 1 (12VAC30-90-330), Traumatic brain injury diagnoses, for related resident and provider requirements.)

12 VAC 30-90-267. Private room differential.

A. Payment shall be made for a private room or other accommodations more expensive than semi-private (two or more bed accommodations) only when such accommodations are medically necessary. Private rooms will be considered necessary when the resident's condition requires him/her to be isolated for his/her own health or that of others.

B. Physician certification justifying the private room must be on file prior to the resident's discharge from the semi-private room. The term 'isolation' applies when treating a number of physical and mental conditions. These include communicable diseases which require isolation of the resident for certain periods. Private room accommodations may also be necessary for residents whose symptoms or treatments are likely to alarm or disturb others in the same room.

C. Reimbursement for private rooms will only be made when authorized by the Virginia Department of Medical Assistance Services (DMAS).

D. The Medicaid private room differential shall be calculated by applying the percent difference between the facility's private and semi-private room charges to the total case mix neutral Medicaid rate for the facility.

12 VAC 30-90-268 through 12 VAC 30-90-269. Reserved.

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

1. TRANSMITTAL NUMBER

2. STATE

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

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY _____ \$ _____
b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

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

9. SUBJECT OF AMENDMENT

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



15. RETURN TO

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED

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

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12 VAC 30-90-268 through 12 VAC 30-90-269. Reserved.

TN No. 24-0013
Supersedes
TN No. 23-0017

Approval Date _____

Effective Date 7/1/2024