

**REPORT OF THE  
DEPARTMENT OF SOCIAL  
SERVICES ON**

# **Expanding the Auxiliary Grants Program**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **Senate Document No. 9**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1987**



COMMONWEALTH of VIRGINIA  
Department of Social Services  
Office of the Commissioner

Blair Building  
8007 Discovery Drive  
Richmond, Virginia 23229-8699

William L. Lukhard  
Commissioner

December 19, 1986

**TO: The Honorable Gerald L. Baliles, Governor of Virginia**

**and**

**The General Assembly of Virginia**

The report contained herein is being submitted pursuant to Senate Joint Resolution 62, passed by the 1986 Session of the General Assembly. The Departments of Social Services and Mental Health and Mental Retardation were directed to plan to expand the Auxiliary Grants Program to include as eligible recipients residents of facilities other than Homes for Adults.

This report was prepared by the Department of Social Services with assistance from the Department of Mental Health and Mental Retardation, the Department of Medical Assistance Services, the Department of Health, the Department of Rehabilitative Services, and the Department for the Rights of the Disabled. It reviews the history of the Auxiliary Grants Program, the eligibility criteria for the Supplemental Security Income Program, and funding issues and regulatory conflicts which impinge on expansion of the program. The report also examines various options for expansion of the Auxiliary Grants Programs and concludes that increasing the range of housing with community support services for the mentally disabled can be achieved with fewer constraints in ways other than expansion of the Auxiliary Grants Program.

As always I will be happy to discuss this report with you and to assist you in any way possible.

Respectfully submitted,

  
William L. Lukhard

**Report of the  
DEPARTMENT OF SOCIAL SERVICES  
on Expanding the  
AUXILIARY GRANTS PROGRAM**

**December 1986**



**I. INTRODUCTION**

The Virginia Departments of Social Services and Mental Health and Mental Retardation were directed by the 1986 Session of the General Assembly to plan to expand the Auxiliary Grants Program to include as eligible recipients residents of facilities other than Homes for Adults. The resolution reads as follows:

**SENATE JOINT RESOLUTION NO. 62**

Expressing the sense of the General Assembly that the auxiliary grants program be expanded to provide benefits to mental health clients in community services boards facilities.

WHEREAS, the auxiliary grant program was established in 1973 by the General Assembly to assist any individual whose Supplemental Security Income (SSI) and other resources are insufficient to maintain a minimal level of need; and

WHEREAS, additionally, certain individuals ineligible for SSI due to income excess are covered by this program; and

WHEREAS, post-hospitalized mental health clients account for approximately fifty percent of the auxiliary grant recipients at the present time, and

WHEREAS, by policy an individual must reside in a licensed home for adults to be eligible to receive an auxiliary grant, yet homes for adults are traditionally domiciliary facilities and not staffed or monitored to meet the needs of mentally disabled residents; and

WHEREAS, the Joint Legislative Audit and Review Commission, the Committee on Housing for the Disabled and the Department of Social Services Auxiliary Grants Program Study recently recommended expanding the auxiliary grant program to include residents of facilities other than homes for adults; and

WHEREAS, community services boards are locally managed and operate under the Department of Mental Health and Mental Retardation and provide public mental health services at the community level; now, therefore be it

RESOLVED by the Senate, the House of Delegates concurring, That it is the sense of the General Assembly that, within the limitation of funds available for appropriation, the auxiliary grant program should be expanded to provide benefits for eligible persons residing in housing sponsored and licensed by community services boards; and, be it

RESOLVED FURTHER That the Departments of Social Services and Mental Health and Mental Retardation should plan to incorporate these residential settings into the auxiliary grant program with provisions for licensure, transfer of funding and the necessary policies and procedures to effect this change. Such plan shall be completed and reported to the General Assembly prior to

the 1987 Session; and, be it

RESOLVED FINALLY, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Commissioners of the Departments of Social Services and Mental Health and Mental Retardation and the Secretary of Human Resources.

In order to prepare such a plan, the Department of Social Services as lead agency convened a task force of representatives from the Department of Mental Health and Mental Retardation, the Department of Health, the Department of Medical Assistance Services, the Department of Rehabilitative Services, the Department for the Rights of the Disabled, as well as representatives of the Divisions of Service Programs, Licensing Programs, and Benefit Programs of the Department of Social Services. After examining the history of the Auxiliary Grants Program, the eligibility criteria for the Supplemental Security Income (SSI) Program, funding issues and regulatory conflicts with Medicaid coverage, the group evaluated various options for providing State financial support to assist in meeting the community residential needs of Virginia's post-hospitalized mental health clients. The information contained in this report was developed by this interagency task force.

## **II. DEVELOPMENT AND DESIGN OF AUXILIARY GRANTS PROGRAM**

### **A. HISTORY**

Prior to 1974, the Commonwealth of Virginia operated three programs to provide financial assistance to aged, blind and disabled individuals. These three programs and their titles under the Social Security Act were: Old-Age Assistance (OAA-Title I), Aid to the Blind (AB-Title X), and Aid to the Permanently and Totally Disabled (APTD-Title XIV). Recipients of these financial assistance programs were automatically eligible for Medicaid. Effective January 1, 1974, Public Law 92-603 abolished the OAA, APTD, and AB Programs under the Social Security Act and established the Supplemental Security Income (SSI) Program (Title XVI) which is administered by the federal government and makes payments to eligible aged, blind, and disabled persons. SSI recipients were no longer automatically eligible for Medicaid. In order to receive Medicaid in Virginia, SSI recipients were required to file a separate application for Medicaid and meet eligibility requirements. In 1973, the General Assembly passed legislation permitting the Department of Social Services and Visually Handicapped to establish an Auxiliary Grants Program (AG).

Later in 1973, an amendment to Title XVI (Section 212 of P.L. 93-66) required that the individual income of aged, blind, and disabled persons be maintained at the December, 1973, levels. Grants could be reduced if the individual's situation changed or income increased. If states did not agree to the amendment, federal matching funds for Medicaid would be lost. Therefore, the Auxiliary Grants Program as originally established was

designed to assist individuals who had been recipients in December, 1973, under the previous programs and whose income under SSI was less than their December, 1973, income. These cases which were called "mandatory supplementation" began receiving Auxiliary Grants assistance in January, 1974.

Later, in July 1974, the Auxiliary Grants Program was expanded, as allowed by federal law and regulation, to include aged, blind, or disabled persons residing in Homes for Adults (HFAs) if the individual had insufficient funds to meet his needs in a Home for Adults and met SSI requirements or would have been eligible for SSI except that the individual had income in excess of the SSI level. This part of the AG program was called "optional supplementation" to distinguish these cases from the December, 1973, "mandatory supplementation" cases. Because individual income has increased since December, 1973, it is no longer necessary for Virginia to divide Auxiliary Grants recipients into mandatory or optional supplementation groupings.

In 1982, the Auxiliary Grants Program was again expanded to include eligible aged, blind, or disabled persons who reside in Adult Family Care Homes.

In 1984, the General Assembly passed legislation which gave the Department of Social Services sole responsibility for operating the Auxiliary Grants Program.

## **B. DESIGN OF STATE SUPPLEMENTATION PROGRAMS**

### **1. Federal Requirements**

When the Supplemental Security Income Program (SSI) was established in January, 1974, as a totally federally funded program (administered by the Social Security Administration) to assist aged, blind, and disabled people who were determined to be in need, all persons with income below the SSI level who had received assistance in December, 1973, under the three State and federally funded programs (OAA, AB and APTD) were transferred to the new program. The new law required that the recipients of the three previous financial programs receive the same amount of income in January, 1974, as in December, 1973, unless the needs had decreased. In order for the State to be eligible for federal financial participation in the cost of Medicaid expenditures beginning after December, 1973, Virginia had to agree to maintain the December, 1973, income level for individuals whose income was reduced under the new program.

While states were mandated to supplement January, 1974, income to ensure that income levels of former AB, OAA, and APTD recipients would not be reduced, the states were also allowed, at their option, to supplement the income

of SSI recipients or individuals who would be eligible for SSI except for excess income (e.g., are disabled but have minimal income which is in excess of the level in SSI regulations). That is, the states could elect to supplement everyone who was SSI eligible, everyone who would have been eligible for SSI except for excess income, or various subgroups of these two groups (e.g., aged SSI recipients; only disabled SSI recipients or aged individuals; only blind SSI recipients; only aged, blind, or disabled SSI recipients who resided in domiciliary or congregate care facilities; who lived alone; who lived with an ineligible spouse; etc.). Basically, the states were allowed to provide optional supplementation to any SSI recipient or to anyone who would have been eligible for SSI except for excess income under any conditions and in any amount that the State chose to elect.

## **2. Virginia's Program**

The Auxiliary Grants Program (the State supplementation program), which is State and locally funded, was created by the 1973 Session of the General Assembly to allow the State to supplement the income of SSI recipients and the income of individuals who had income in excess of the SSI level. When the State evaluated implementing an optional State supplementation program (AG), there was insufficient money to supplement the income of all potentially eligible individuals. The State determined that the income of most individuals receiving assistance under the new SSI program would be higher than the income the individuals received under the old programs. However, there was one major group for whom income would not be higher. These were aged, blind and disabled individuals who resided in Homes for Adults. The SSI payment in January, 1974, would be \$140 per month per client, while the Home for Adults rate as set by the Department would be \$160 per month. Therefore, it was decided when funding became available that aged, blind, and disabled individuals who lived in Homes for Adults licensed by the Department of Social Services and were financially in need would be eligible for assistance from AG.

Because of lack of funding, the State began providing only mandatory Auxiliary Grants payments effective January, 1974, for those individuals who did not receive enough SSI so that their income was equivalent to their December, 1973, income. Clients who transferred to the new Auxiliary Grants Program retained their Medicaid eligibility. In July, 1974, when funding became available and as authorized by the Code of Virginia, the Auxiliary Grants Program was expanded to include aged, blind or disabled individuals whose income was insufficient to meet the cost of care in a Home for Adults licensed by the Department of Social Services.



The clients approved under the expanded program were automatically eligible for Medicaid.

### **3. Restrictions on State Supplementation**

At the time Virginia began administering a State supplementation program, there were no federal restrictions concerning the expenditure of State funds. However, in 1976 Public Law 94-585 was enacted to ensure that federal cost-of-living payment increases to SSI recipients were passed along by states to clients who were in State supplementation programs (e.g., received State dollars to supplement income provided under the federal program). A pertinent part of P.L. 94-585 provided that states must, as a condition for receiving federal Medicaid funds, maintain the dollar amount of State supplementation payments (the "pass-along" requirement) at levels no lower than those that were in effect for December, 1976. A State was considered to have met the requirement for maintaining the supplementary payment levels if the total State expenditure for supplementary payments for the twelve months beginning with the cost-of-living increase was at least equal to the total State expenditure for the twelve month period before the cost-of-living increase.

In order to continue its State supplementation program and maintain federal financial participation in the Medicaid program, Virginia elected to comply with the federal "pass-along" requirements and entered into an agreement with the Secretary of Health and Human Services that Virginia's total Auxiliary Grants expenditures after a cost-of-living increase would be at least equal to the previous twelve month period. While 1976 expenditures originally served as a basis for determining compliance with the federal "pass-along" requirements, the law requires that the current twelve month expenditure must always be equal to or exceed the previous twelve month expenditure level or the State will cease receiving federal Medicaid funds. Because Virginia's Auxiliary Grants expenditures tend to increase each year due to increased caseloads, increased Home for Adults rates, increased personal needs allowances, etc., the State's mandatory expenditure level continues to increase sufficiently to maintain the "pass-along" requirement and, therefore, to protect Virginia's share of federal matching funds for Medicaid.

### **C. ROLES AND FUNCTIONS**

Funding for the Auxiliary Grants Program and effective service delivery to Auxiliary Grants Program clients involve coordination among a number of agencies.

## **1. Federal Agencies**

### **a. Health Care Financing Administration**

The Health Care Financing Administration (HCFA) is the federal agency which administers and regulates the federal Medicaid Program. This agency approves the provisions of the Virginia Medicaid Plan and makes matching payments to the State for the federal share of the Medicaid Program.

### **b. Social Security Administration**

The Social Security Administration (SSA) is the federal agency which administers and regulates the Social Security Programs including the Supplemental Security Program (SSI). This agency establishes the rules and regulations governing eligibility for SSI and funds the Disability Determination Service (which is housed in the Virginia Department of Rehabilitative Services) and sets the rules and regulations for its determinations.

## **2. General Assembly**

Funding for the State's supplemental income assistance program (AG) for the aged, blind and disabled is legislatively appropriated by the General Assembly. This legislative process also establishes the maximum rate which may be approved for a licensed Home for Adults which accepts Auxiliary Grants recipients and establishes the funding formula which determines the State and local funding ratio for auxiliary grants payments.

## **3. State Agencies**

### **a. The Department of Social Services**

The Department of Social Services (DSS) has responsibility for the licensure and monitoring of Homes for Adults, establishing individual rates for approved Homes for Adults up to the maximum rate set by the General Assembly and establishing policies and procedures which govern eligibility for the Auxiliary Grants Program. The Department also monitors compliance with established policy and reimburses local departments of welfare/social services for the State's share of Auxiliary Grants program expenditures.

### **b. Department of Medical Assistance Services**

The Department of Medical Assistance Services has responsibility for administering the federal Medicaid program and establishing regulations governing the State's plan for medical

assistance. This agency establishes eligibility standards and eligibility requirements for participation in the Medicaid program. Under the State Medicaid plan approved by the Health Care Financing Administration (HCFA), auxiliary grants recipients are automatically eligible for Medicaid because the Auxiliary Grants Program meets the definition of a State supplemental program.

**c. Department of Rehabilitative Services**

The Department of Rehabilitative Services offers assistance to physically, mentally, and emotionally disabled persons in order that they may become as self-supporting and independent as possible. The Department administers the disability determination program through regulations in conjunction with the Social Security Administration to adjudicate disability claims for disability insurance benefits, Supplemental Security Income, Medicaid and Auxiliary Grants.

**d. Department for the Visually Handicapped**

The Department for the Visually Handicapped has general supervision over State and local social services to the legally blind and other visually handicapped persons. It is mandated to provide programs of special education, rehabilitation teaching, vocational rehabilitation, library services, and specialized low vision eye examinations. This agency determines whether an individual meets the definition of blindness for Supplemental Security Income, Medicaid and Auxiliary Grants.

**e. Department of Mental Health and Mental Retardation**

The Department of Mental Health and Mental Retardation is responsible for the planning, coordination, and monitoring of mental health, mental retardation, and substance abuse services in the Commonwealth. The Department operates 16 inpatient treatment facilities and provides funds and sets direction for community mental health, mental retardation and substance abuse services.

The Department of Mental Health and Mental Retardation's Patient Management Guidelines require institutional and Community Services Boards (CSB) staff to work with local departments of welfare/social services to assure needed social and/or financial assistance services for patients prior to discharge. State institutional and Community Service Board (CSB) staff assist

clients to make application for local social and financial services and make application for SSI benefits when it appears a client is eligible for the program.

#### **4. Local Agencies**

##### **a. Local Departments of Welfare/Social Services**

The Auxiliary Grants Program is mandated for all localities and all eligible clients and within the framework of the statutes and the regulations of the State Board of Social Services, local departments of welfare/social services carry responsibility for the administration of the Auxiliary Grants Program in their respective localities. Local departments of welfare/social services are responsible for determining eligibility for the Auxiliary Grants Program in accordance with the financial and nonfinancial standards established by the State Board, for making monthly payments to eligible individuals and for providing the necessary supportive services for which an individual is determined eligible.

Since the Auxiliary Grants Program is designed to assist individuals whose Supplemental Security Income and/or other income is insufficient to maintain them at the minimum level of need, the eligibility criteria that must be verified by local departments of welfare/social services involve the determination of eligibility for SSI. An explanation of the eligibility criteria for the Auxiliary Grants Program is contained in the Appendix.

##### **b. Community Services Boards**

Community Services Boards (CSB), by law and regulation, are the primary locus of service management responsibility for the entire continuum of mental health, mental retardation, and substance abuse client services. CSBs retain responsibility for the management of clients when they are in State facilities and are responsible for preadmission screening and discharge planning for clients seeking entry to or discharge from State facilities. They are also responsible for assuring the following "CORE" services: inpatient; outpatient and case management; residential; day support (including psychosocial rehabilitation); prevention and early intervention.

##### **c. Local Government**

Local government funds 20% of the cost of Auxiliary Grants payments for clients from their

locality. Any change made in, or affecting, the Auxiliary Grants program should be made in concert with local governments.

**III. DESCRIPTION OF CURRENT AUXILIARY GRANTS PROGRAM**

**A. COSTS**

Since its establishment by the General Assembly in 1973, the Auxiliary Grants Program has experienced substantial growth in the number of cases and in total expenditures. The program's history in terms of average aged and disabled cases and total expenditures (State and local funds) per year is summarized in the following table.

| <b>DEPARTMENT OF SOCIAL SERVICES<br/>AUXILIARY GRANTS PROGRAM<br/>CASES AND EXPENDITURES*</b> |  |                                      |   |
|---|--|--------------------------------------|---|
| <u>Fiscal Year</u>  | <u>Average<br/>Annual<br/>Caseload</u> | <u>Total Annual<br/>Expenditures</u> | <u>Average Per<br/>Person Per<br/>Month</u> |
| 1974-75   | 3,017                                  | \$ 1,194,465                         | \$ 32.99                                    |
| 1975-76   | 2,169                                  | 1,141,708                            | 43.87                                       |
| 1976-77   | 1,905                                  | 1,269,134                            | 55.52                                       |
| 1977-78   | 1,978                                  | 1,839,322                            | 77.49                                       |
| 1978-79   | 2,281                                  | 4,173,874                            | 152.49                                      |
| 1979-80   | 2,706                                  | 5,769,470                            | 177.68                                      |
| 1980-81   | 3,067                                  | 6,889,473                            | 187.19                                      |
| 1981-82   | 3,384                                  | 8,355,903                            | 205.77                                      |
| 1982-83   | 3,710                                  | 9,354,681                            | 210.12                                      |
| 1983-84   | 4,025                                  | 9,174,661                            | 189.95                                      |
| 1984-85   | 4,227                                  | 11,235,118                           | 221.50                                      |
| 1985-86   | 4,882                                  | 11,972,820                           | 204.37                                      |

\*Exclusive of blind cases.

Source: Department of Social Services, Bureau of Research and Reporting

In fiscal year 1984-85, the Department of Social Services began assuming State funding for Blind Auxiliary Grants cases which was previously provided by the Virginia Department for the Visually Handicapped. For fiscal year 1984-85, there was an average annual caseload of 25 blind cases and total program expenditures were \$63,841 and for fiscal year 1985-86, the average annual blind caseload was 24 and total program expenditures were \$60,254.

As can be seen from the table, program expenditures have

increased from \$1,839,322 in 1977-78 to \$11,972,820 in 1985-86, an increase of 551 percent while cases increased 147 percent. This increase in expenditures is largely attributable to increases in costs of services provided by Homes for Adults reflected by increases in the maximum reimbursement rate. In 1977-78, the maximum rate was \$260. The current maximum reimbursement rate for Homes for Adults is \$521 per month except for homes located in Planning District Eight where a 15 percent differential may be added to the maximum amount. In 1983-84, average cases increased 8.5 percent while expenditures decreased 2 percent. This decrease reflects the sensitivity of Auxiliary Grants expenditures to changes in the SSI payment level which increased from \$284.30 in July, 1982, to \$304.30 in July, 1983, and to \$314 in January, 1984, while the Home for Adults rate remained constant at \$475.00 for FY 1982-83 and FY 1983-84. For fiscal year 1986-87, budgeted State expenditures are \$10,858,392, which translates to total program expenditures of \$13,572,990 based on the 80/20 ratio of State and local funding.

While the table reflects the total expenditures that are made for grant payments, additional State and local costs are also associated with the Auxiliary Grants Program. These additional costs include the State match for Medicaid expenditures for these recipients and local and State administrative costs for determining initial and continuing eligibility and providing services.

## **B. ELIGIBLE POPULATION**

Every individual, whether receiving SSI or ineligible for SSI because of income in excess of the SSI level, must meet the following eligibility criteria. An individual who is ineligible for SSI for a reason other than income is automatically ineligible for Auxiliary Grants.

### **1. Nonfinancial Criteria**

#### **a. Aged/Blind/Disabled**

The individual must either be aged, blind, or disabled. Exact criteria for determining if the individual meets this requirement are specified in Section I. A. of the Appendix.

#### **b. Citizen/Lawfully Admitted Alien**

The individual must be a citizen of the United States, an alien who has been lawfully admitted to the United States for permanent residence or an alien who is permanently residing in the United States under color of law. For explanation of how this is determined see Section I. B. of the Appendix.

#### **c. Resident of HFA or AFCH**

The individual must be residing in a licensed

Home for Adults (HFA) or approved Adult Family Care Home (AFCH). See Section I. C. of the Appendix for more information on this requirement.

**d. Resident of Locality**

The individual must be a resident of the locality where the application is being filed. For more information on this requirement, refer to Section I. D. of the Appendix.

**2. Financial Criteria**

The individual must be in need in order to qualify for an Auxiliary Grants payment. To be in need, income and resources must be below specified levels.

**a. Income**

The individual's nonexempted income cannot be greater than the total of the rate for the HFA or AFCH and the allowance for personal care. For more detailed information on income, see Section II. A. of the Appendix.

**b. Resources**

To be eligible, an individual cannot have nonexempted resources in excess of \$1,700. For a couple, the resource level is \$2,550. The Department of Social Services accepts the determination by Social Security that SSI individuals meet the resource level. DSS must determine whether individuals with income in excess of the SSI level meet the federal regulations regarding resources. For more detailed information on how this determination is made, see Section II. B. of the Appendix.

An individual who has transferred resources in an effort to become eligible for AG is not eligible.

**IV. CURRENT ISSUES FACING VIRGINIA**

The return of mentally disabled citizens to their home communities has had a significant impact on the proliferation of Homes for Adults in Virginia. Housing is a critical need for many mental health, mental retardation, and substance abuse clients, including those who are returning to their home communities upon discharge from a State hospital. Without housing which provides a secure and normalizing environment and access to other necessary community support services, a client's opportunity for successful life in the community is diminished. Persons with mental disabilities need a range of housing and support options, based on each individual's particular situation. While adequate housing and residential services are essential to an effective policy of community support, many CSBs lack the resources to offer residential

programs and none have had sufficient fiscal support to allow development of a full continuum of residential services and community support services which promote increased independence.

The lack of effective interagency policy and service coordination with regards to housing for the mentally disabled and the lack of a stable funding base for the provision of housing programs prohibit the CSBs from ensuring that discharged clients will be housed in appropriate settings. As a result of limited CSB housing programs, many of their clients live in Homes for Adults. These clients, if found eligible by a local department of welfare/social services, may also receive auxiliary grants funds. Auxiliary grants funds, in combination with other income (e.g., SSI or Social Security) allow the client to meet the cost of this residential care. While Homes for Adults may not be viewed as the most appropriate setting for many mentally impaired individuals, they frequently offer the only residential option for many of these individuals and are being used to fill a gap in the State's system of residential services. For some clients this type of setting may provide inadequate supervision and structure; for others the congregate setting is overly restrictive, non-normalizing, and inhibits the development of independence.

When mentally disabled clients are placed inappropriately in Homes for Adults, the primary reason is that the Homes for Adults are the only setting (other than Adult Family Care Homes) in which a client can receive State funding support (AG) for community residential services. This fiscal incentive, to use one type of residential setting, goes counter to State policy (SJR 62, JLARC recommendations, DMHMR policy) and good programming, which focus on the provision of a range of housing with support services. Homes for Adults were originally conceptualized as purely domiciliary care settings to serve primarily elderly individuals who were not able to live independently or could not be maintained at home. However, the return of mentally disabled citizens to their home communities has provided Homes for Adults with another clientele with, typically, greater needs than the setting was designed to handle. The discharge and placement process as it currently operates is driven more by the availability of scarce housing resources than by the appropriateness of the particular type of setting. The recent JLARC study of deinstitutionalization and community services concludes that "the JLARC staff review of adult homes indicated that this unplanned component, as presently constituted, is a generally unsatisfactory alternative for State-provided housing for the mentally disabled" (p. 91). This report also indicated that, "Homes for Adults exist as a housing alternative largely outside of the community mental health continuum or care," and "existing regulations do not guarantee the appropriateness of a given home." (p. 92)

The major challenge to Virginia is to realign fiscal incentives. Currently, fiscal incentives encourage and support only one very limited type of community residential program for the mentally disabled.

## **V. REVIEW OF OPTIONS**

Senate Joint Resolution 62 articulates the desirability of State policy which encourages a range of housing with support services to meet the residential



and community support needs of the mentally disabled. The resolution specifically directed the expansion of the Auxiliary Grants program to meet this need. In an effort to determine the feasibility of expanding the Auxiliary Grants Program, SSI regulations and Medicaid regulations were reviewed with regards to their effect on the State's supplementation program. In researching applicable rules and regulations which impinge on this approach, major problems were identified. The interagency task force studying this issue felt it advisable to study additional methods of meeting the policy directive outlined in SJR 62 due to the nature of problems identified with the expansion of the Auxiliary Grants program.

Since Virginia's supplementation program is a State operated program, SSI regulations do not restrict which SSI recipients or aged/blind/disabled individuals who are ineligible for SSI due to excess income are eligible for Auxiliary Grants. SSI regulations define State supplementary payments as cash paid to an individual regularly based on need for the purpose of increasing the amount of income available to the recipient to meet his needs. Therefore, within SSI regulations, Virginia can provide assistance to aged/blind/disabled individuals who receive SSI or would receive SSI, except for excess income. SSI regulations do not restrict living arrangements or the amount of supplementation. It is also important to note that within SSI regulations any form of vendor payments is not considered supplemental payments.

Federal Medicaid regulations established by the Health Care Financing Administration (HCFA) define the classifications/groups of individuals receiving a State supplemental payment (AG) that are eligible for Medicaid. Therefore, since Virginia has elected to provide Medicaid coverage to Auxiliary Grants recipients, the State must assure that any expansion of the program does not include classifications/groups of individuals that would jeopardize Virginia's program being considered a State supplementation program by HCFA. The following options for expansion of the State supplementation program (AG) were considered:

#### **A. EXPANSION OF THE AUXILIARY GRANTS PROGRAM**

##### **1. Cover All Aged, Blind, and Disabled Individuals**

SSI and Medicaid regulations will allow the State to assist all aged, blind, and disabled individuals who are receiving SSI and those aged, blind, and disabled individuals who meet all SSI requirements and whose income is below 300% of the SSI level. Based on December, 1984, SSI caseload figures, just expanding the Auxiliary Grants program to cover all SSI recipients would increase the Auxiliary Grants caseload by an estimated 71,000 individuals. There are no figures available which can be used to project the additional number of aged, blind, disabled individuals who have too much income to be eligible for SSI. Based on the present standard of need for Auxiliary Grants, expansion of the program just to cover all SSI recipients would increase the annual Auxiliary Grants expenditure by \$187,440,000. (\$556 standard of need - \$336 SSI payment level x 12 months x 71,000 increased cases). It is impossible to

estimate the cost for providing an equivalent amount of assistance to individuals who meet all SSI requirements and whose income is below 300% of the SSI level.

The majority of SSI recipients in Virginia are receiving Medicaid coverage, therefore, the Medicaid expenditures for expanding Auxiliary Grants to all SSI recipients would not have a significant impact on the Medicaid budget. On the other hand, expanding Auxiliary Grants to all aged, blind, and disabled individuals who meet the SSI requirements and whose income is below 300% of the SSI level would result in significant Medicaid expenditures.

## **2. Cover Selected Classes**

The State could elect to assist the class of all disabled SSI recipients or all disabled individuals who meet the SSI requirements and whose income is below 300% of the SSI level. Similarly, it could elect to cover all aged persons or all blind. In the instance of expanding the Auxiliary Grants program to cover the disabled SSI recipients at the present standard of need for Auxiliary Grants would increase Auxiliary Grants expenditures for disabled SSI recipients by \$110,880,000. (\$556 standard of need - \$336 SSI payment level x 12 months x 42000 increased cases based on December, 1984 SSI caseload figures). Again, this figure does not include providing assistance to disabled individuals who meet all SSI requirements and whose income is below 300% of the SSI level.

There is no federal option which will allow the State to restrict assistance to certain types of disabilities such as the chronically mentally ill. Restricting the types of disabilities to be covered could result in Medicaid ruling that Virginia's supplementation program (AG) is not in compliance with HCFA regulations and AG recipients would not be automatically eligible for Medicaid. Implementation of this option would impact on the existing AG recipients who are receiving medical assistance services.

## **3. Disabled Individuals in Domiciliary Facilities**

SSI regulations allow the State to restrict assistance to individuals in domiciliary facilities. For the purposes of SSI, domiciliary facilities include public residential homes with sixteen (16) people or less and private residential facilities. Medicaid regulations allow a State to provide medical assistance to disabled individuals in domiciliary facilities who are receiving a supplemental payment. Homes for Adults licensed by the Department of Social Services and group homes licensed by the Department of Mental Health and Mental Retardation

(DMHMR) are considered to be domiciliary facilities.

Expansion of the Auxiliary Grants program to include individuals in group homes licensed by DMHMR does not present any regulatory conflicts with individual entitlements to SSI or Medicaid coverage. A procedure for establishing rates for these group homes would have to be developed and a decision made as to whether the maximum rate established by the Appropriations Act for HFAs would be used for these facilities. A revision to the Appropriations Act would also be required to permit Auxiliary Grants payments to be made available to qualified residents of these facilities. While the numbers of SSI recipients and individuals with too much income for SSI who reside in group homes is unknown, the cost of such expansion is estimated to be minimal. The expansion of Auxiliary Grants to group homes does not, however, provide the needed range of community residential alternatives being sought by the mental health community. Also, this expansion could potentially provide fiscal incentives for placements at inappropriate levels of care that would not promote client independence and may actually exacerbate the problems that SJR 62 seeks to address. The funds freed up by the Community Services Boards through the application of Auxiliary Grants to group home residents would be insufficient to allow boards to develop many other needed placement alternatives.

#### **4. Disabled Individuals in Other Living Arrangements**

HCFA regulations allow Medicaid to be provided to disabled individuals in "other group living arrangements" as defined by SSI. However, SSI regulations do not use the phrase "other living arrangements" and thus do not define the term. Since there is no SSI definition of group living arrangements, it is unclear as to what types of living arrangements an individual can have and not jeopardize eligibility for Medicaid. The Department of Social Services has requested that the Department of Medical Assistance Services seek a definition of "other group living arrangements" from HCFA in order to determine if Auxiliary Grants can be expanded to individuals in other living arrangements without jeopardizing the Medicaid coverage of current Auxiliary Grants recipients.

Within other living arrangements, supervised apartments were discussed as a needed placement option for the development of a residential continuum of care. While a definition of other group living arrangements is needed from HCFA in order to determine if the State can provide Medicaid coverage to this population if they receive Auxiliary Grants, SSI administrators have indicated they do not consider supervised apartments to be group living

arrangements.

## **B. ESTABLISHMENT OF NON-SUPPLEMENTATION PROGRAM**

Programs which are not defined as State supplementation programs can be targeted to specific populations and would not be constrained by federal rules and regulations. They allow for the expansion of the range of settings which provide housing and support services, which is the intent of SJR 62. The expansion of these types of programs requires either the redirection of current Auxiliary Grants funds or the appropriation of new State funds for new programs.

1. Redirection of current Auxiliary Grants funds: While this is theoretically possible, it could result in problems with the current method of assuring that the "pass-along" requirement is met. Presently, the State meets the "pass-along" requirement by showing that total Auxiliary Grants expenditures do not decline from year to year. Removing Auxiliary Grants funds for redirection to non-State supplementation programs could trigger the cut off of federal matching funds for Medicaid.

2. New State funds for new programs: SSI and Medicaid regulations do not define vendor payments as supplemental payments. Therefore, the State could elect to design other complementary programs which would not be defined as State supplementation programs. This approach could establish new programs whereby funds would go to programs rather than individual clients, thereby avoiding the definition of a "State supplementation program." This approach could offer equivalent services and benefits to targeted areas without the many constraints imposed on a State supplementation program. Several initiatives have been proposed by DMHMR to increase housing with support services and the necessary community mental health services (particularly the housing subsidy program proposed by VHDA and DMHMR).

## **VI. CONCLUSIONS**

Among the needs of the chronically mentally ill and the mentally retarded are support, habilitation, socialization and housing. The Virginia Supplementation program called the Auxiliary Grants Program (AG) provides sheltered, supervised housing and, with concurrent Medicaid eligibility, basic health care coverage. The Auxiliary Grants Program cannot, in itself, feasibly provide for a range of supervised living arrangements developed through local initiative without an investment of significant additional funds. Such an investment would commit the Commonwealth to future maintenance of effort ("pass-along" requirement) even if perceived needs and recommended programs change.

If the aim of the Commonwealth is to provide State funded housing alternatives

for its mentally disabled population, more flexibility and less risk are available through approaches to funding which do not involve AG. Although AG eligibility brings with it automatic Medicaid coverage, the federal regulations governing State supplementation programs limit the flexibility to design and test new coverages through AG. Medicaid can still be available for basic health care coverage in other settings when categorical and financial eligibility conditions are met.

Most clients needing supervised living arrangements would meet Medicaid categorical requirements of age or disability. They would also meet financial eligibility requirements although some may have to achieve eligibility by expending a portion of their income for their medical care.

However, if the real need is to fund not just the housing but the supportive and habilitative or rehabilitative services needed as part of supervised living, the most effective way to achieve this is through State funded programs. Options for innovative Medicaid funding of some of the supportive, habilitative or rehabilitative services should be explored through amendment to the State Plan for Medical Assistance or through Home and Community Based Care Waivers.

In this way, service options can be tailored to service needs in a way that will provide either new statewide services or pilot program development to test novel approaches to untried community services. Either of these approaches is available through channels with similar State funding requirements, but less restrictive federal requirements than State Supplemental programs (AG).

In summary, the interagency task force reviewed various methods for meeting the policy directive outlined in Senate Joint Resolution 62 to increase the range of housing with community support services for the mentally disabled and realigning fiscal incentives to support this policy direction. It is concluded by the task force that the goals of Senate Joint Resolution 62 can be met with fewer constraints in ways other than expansion of the Auxiliary Grants Program. These options require further exploration.

## APPENDIX

### I. NONFINANCIAL ELIGIBILITY CRITERIA

#### A. AGED/BLIND/DISABLED

##### 1. Aged

If the individual is eligible for Medicaid, Social Security, SSI, or Railroad Retirement because he/she is 65, this requirement is met. If the individual is not eligible for Medicaid, Social Security, SSI, or Railroad Retirement because he/she is 65, the local department of social services must establish applicant/recipient is over 65 by documentation, such as birth certificate, family bible, insurance policy, baptismal record, census record, marriage record, or child's birth certificate. If the applicant's birth certificate is not available, at least two other documents with information on age shall be used.

##### 2. Blind

If the individual is eligible for Medicaid, Social Security, SSI, or Railroad Retirement because he/she is 18 or over and is blind, this requirement is met. If the individual is not eligible for Medicaid, Social Security, SSI, or Railroad Retirement because he/she is 18 or over and is blind, the local department of social services must follow procedures established by the Virginia Department for the Visually Handicapped to determine if the individual is legally blind.

##### 3. Disabled

If the individual is eligible for Medicaid, Social Security, SSI, or Railroad Retirement because he/she is 18 or over and is disabled, this requirement is met. If the individual is not eligible for Medicaid, Social Security, SSI, or Railroad Retirement because he/she is 18 or over and is disabled, the local department of social services must complete the required forms and submit them to the Department of Rehabilitative Services for a disability determination.

#### B. CITIZEN/LAWFULLY ADMITTED ALIEN

##### 1. SSI Recipient

If the individual is receiving SSI, the requirement is met.

##### 2. Non-SSI Recipient

If the individual is not eligible for SSI, the local agency must determine this requirement is met.

#### C. RESIDENT OF HFA OR AFCH

Although the local agency determines whether an individual is

in a licensed HFA or approved AFCH, SSA may determine an HFA is a public institution where individuals are not eligible for SSI. Included are public institutions with more than 16 people or those on hospital grounds. Any individual determined by SSA to be in a nonqualifying institution would be ineligible for AG.

**D. RESIDENT OF LOCALITY**

The local department of social services must determine if the individual is a resident of the locality where application is being made. The individual is a resident of the locality where he/she last lived outside of an institution. If the individual's last residence cannot be determined, the individual will be a resident of the locality where the HFA is located.

**II. FINANCIAL ELIGIBILITY CRITERIA**

**A. INCOME**

**1. Definitions**

**a. Income**

Income is anything received by or considered available to the applicant/recipient that could be or is used to meet the person's needs in the HFA or AFCH.

1) Earned Income

Earned income includes gross wages provided in exchange for work, net earnings (profit) from self-employment and care provided by the HFA or AFCH in exchange for work.

2) Unearned Income

Unearned income is income received for a reason other than payment for work. It includes payment of care by a third party, the furnishing of all personal care needs, contributions, benefits, interest, dividends, and money from property.

**b. Nonexempted Income**

Income that is counted when determining whether an individual is in need of an AG payment.

**c. Disregarded Income**

Income that is not counted in determining the individual's nonexempted income. Also known as exempted income. (See Section 2 below for income that is disregarded.)

**d. Rate**

The maximum rate allowed for a HFA is determined by the General Assembly, but the central office of the Department of Social Services (DSS) sets individual HFA rates. For AFCH the maximum rate is set by the central office of DSS, but individual family home rates are determined by

the local DSS.

**e. Personal Care Allowance**

The amount allowed for the personal care allowance is presently established by the General Assembly.

**2. Disregarded Income**

In determining the amount of nonexempted income, the following amounts or types of income are disregarded:

a. For an individual or couple with unearned income only, \$20.00 a month is disregarded. If the unearned income is a VA pension, there is no disregard.

b. For an individual or couple with 1) earned income and 2) unearned income in excess of \$20.00, \$20.00 of the unearned income is disregarded. Also disregarded is the first \$65 of the earned income and 1/2 of the remaining earned income.

c. For an individual or couple with 1) earned income and 2) less than \$20.00 unearned income, the first \$85.00 of the total income is disregarded. Also disregarded is 1/2 of the income remaining after the \$85 is disregarded.

d. Payments from Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

e. Payments from Sections 25-239, 25-240, and 25-241 of the Code of Virginia for relocation assistance.

f. Compensation paid under Sections 404(g) and 418 of the Domestic Volunteer Service Act of 1973.

g. If the client has used some or all of his/her monthly income received during the month of AG application and entrance into the HFA to meet needs incurred before entering the home, only the income actually available will be counted.

h. If the applicant/recipient has a spouse at home who has applied for SSI and is not aged, blind, or disabled, the amount of the applicant's/recipient's nonexempt income necessary to increase the spouse's income to the Medicaid level for one person at home will be disregarded.

i. If the applicant/recipient has a spouse/minor children at home who have applied and are ineligible for ADC for a reason other than resources, the amount of the applicant's/recipient's nonexempted income necessary to increase the spouse's/children's income to the appropriate Medicaid level will be disregarded.

If the individual is an SSI recipient, items a-f are disregarded by SSA when the amount of SSI is determined.



## **B. RESOURCES**

### **1. Definitions**

#### **a. Resources**

Resources are cash, liquid assets, and real or personal property that the individual or couple owns that could be converted to cash to be used for the individual's support in the Home for Adults or Adult Family Care Home. The individual must have the right, authority, or power to liquidate the asset.

##### 1) Liquid Assets

These resources include cash and any financial instruments, such as bonds, stocks, mutual funds, or promissory notes which are convertible to cash. NOTE: Prepaid funeral contracts established by the applicant/recipient including principal and accumulated interest are a resource to the client.

##### 2) Nonliquid Assets

These resources include real and personal property, such as trailers, motor vehicles, real estate, boats, insurance, livestock, and household goods.

#### **b. Nonexempted Resources**

Resources that are counted in determining whether an individual is eligible for an AG payment.

#### **c. Exempted Resources**

Resources that are not counted in determining whether an individual is eligible for an AG payment. See Section 2 below for resources that are exempted.

### **2. Exempted Resources**

**a.** A home occupied by the spouse and/or minor children of the applicant/recipient. A home means the shelter in which the spouse/children reside as the principal place of residence. It includes the lot and any outbuildings necessary for the operation of the home, but does not include other contiguous property.

**b.** Income-producing real property owned by the client, if the individual's equity does not exceed \$6,000 and the property yields a net annual return of at least 6 percent of the equity. "Equity" means the current market value of the property less the recorded encumbrances.

**c.** Life interest in real property.

**d.** Burial plots owned by the individual.

**e.** Personal belongings of the applicant/recipient.

**f.** Household goods owned by the applicant/recipient if used by the applicant/recipient, his/her spouse or minor children.

**g.** One motorized vehicle if the current retail market value is \$1,200 or less or if its value is not less than \$1,200 it is: 1) used to obtain regular ongoing medical treatment by the applicant/recipient or a member of the applicant's/recipient's family at home; or 2) used for employment by the applicant/recipient or a member of the applicant/recipient's family at home; or 3) especially equipped for a disabled applicant/recipient or a disabled member of the applicant's/recipient's family at home.

**h.** The home and household goods of an applicant/recipient who needs temporary care in a Home for Adults. "Temporary care" means the individual will be able to return to his/her home in six (6) months or less.

**i.** The cash value of life insurance owned by the individual when the face value is \$1,500 or less.

**j.** If kept separate from other resources:

1) Payments from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

2) Payments from Sections 25-239, 25-240, and 25-241 of the Code of Virginia for relocation assistance.

3) Payments from Sections 404(g) and 418 of the Domestic Volunteer Service Act of 1973.

### **3. Transfer of Resources**

There are detailed procedures for the local department of social services to follow to determine whether an individual has transferred resources in an effort to become eligible for an AG payment.



