



COMMONWEALTH of VIRGINIA
Department of Medical Assistance Services

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July 30, 2015

MEMORANDUM

TO: The Honorable Walter A. Stosch
Co-Chairman, Senate Finance Committee

The Honorable Charles J. Colgan
Co-Chairman, Senate Finance Committee

The Honorable S. Chris Jones
Chairman, House Appropriations Committee

Daniel S. Timberlake
Director, Virginia Department of Planning and Budget

FROM: Cynthia B. Jones

A handwritten signature in black ink that reads "Cynthia Jones".

SUBJECT: Report on Implementation of Legislation to Allow Dentists Participating in the Smiles for Children Program to Participate in the Commonwealth's Deferred Compensation Plan

HB147 (O'Bannon) passed by the 2014 General Assembly and Item 304 #1c passed by the 2015 General Assembly, states: The Department of Medical Assistance Services shall report on the implementation of provisions in Chapter 196, 2014 *Acts of Assembly*, which authorizes the agency to provide payments or transfers to the Virginia Retirement System's deferred compensation plan for dentist or oral maxillofacial surgeons who are independent contractors that provide services for the Medicaid program. The department shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees by July 1, 2015. The language directs DMAS, in conjunction with the Virginia Retirement System (VRS), to implement provisions to allow for participation in the 457 Deferred Compensation Plan administered by the Virginia Retirement System (VRS) by dentists participating in the *Smiles For Children* (SFC) Medicaid dental program. This report is in response to that directive.

Should you have any questions or need additional information, please feel free to contact me at (804) 786-8099.

CBJ/

Enclosure

pc: The Honorable William A. Hazel, Jr., MD, Secretary of Health and Human Resources

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

ADMINISTERING MEDICAID AND THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM IN VIRGINIA



DMAS' mission is to provide a system of high quality and cost effective health care services to qualifying Virginians and their families.

The Medicaid program, signed into law by President Lyndon B. Johnson on July 30, 1965, celebrates its 50th year in 2015.

Medicaid is a joint federal and state program authorized under Title XIX of the Social Security Act that provides health and long-term care coverage for specific groups of Virginians with low incomes. In Virginia, Medicaid is administered by the Department of Medical Assistance Services (DMAS) and is jointly funded by Virginia and the federal government. Virginia's federal matching rate, known as the Federal Medical Assistance Percentage (FMAP) is generally 50%, meaning Virginia receives \$1 of federal matching funds for every \$1 Virginia spends on Medicaid.

Medicaid coverage is primarily available to Virginians who are children in low-income families, pregnant women, elderly, individuals with disabilities and parents meeting specific income thresholds.

All states must follow general federal Medicaid guidelines regarding who is covered, but states set their own income and asset eligibility criteria. Virginia's eligibility criteria are among the strictest in the nation.



Report to the General Assembly from the

Department of Medical Assistance Services

Implementation of Legislation to Allow Dentists Participating in the Smiles for Children Program to Participate in the Commonwealth's Deferred Compensation Plan (457 Plan)

Report Mandate: HB147 (O'Bannon) passed by the 2014 General Assembly and Item 304 #1c passed by the 2015 General Assembly, states: The Department of Medical Assistance Services shall report on the implementation of provisions in Chapter 196, 2014 *Acts of Assembly*, which authorizes the agency to provide payments or transfers to the Virginia Retirement System's deferred compensation plan for dentists or oral maxillofacial surgeons who are independent contractors that provide services for the Medicaid program. The department shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees by July 1, 2015. The language directs DMAS, in conjunction with the Virginia Retirement System (VRS), to implement provisions to allow for participation in the 457 Deferred Compensation Plan administered by the Virginia Retirement System (VRS) by dentists participating in the **Smiles For Children** (SFC) Medicaid dental program.

Background: HB147 along with language in the 2015 *Virginia Acts of Assembly* were supported by the Virginia Dental Association (VDA) to promote the recruitment of new dental providers as well as to encourage the retention of existing SFC dental providers. Proponents of the original 2014 legislation argued that improving economic conditions would make Medicaid dental provider participation less attractive without such a benefit to attract dentists. However, over the last fiscal year, the SFC provider network has continued to grow from 1,898 providers (SFY14) to 1,972 providers (SFY15). More than 90% of the SFC providers are accepting new patients.

HB147 was passed by the 2014 Virginia General Assembly (without a budget appropriation) as a pilot program with a five year sunset provision. It granted authority for the DMAS Director to implement provisions to allow dental provider participation in the 457 deferred compensation plan administered by the Virginia Retirement System, effective January 1, 2015. Additional *Appropriations Act* language was passed in the 2015 General Assembly Session, which called for a report by July 1, 2015, on DMAS' progress toward implementing the proposed participation of SFC dentists in the deferred compensation plan. This report is in response to that directive.

- DMAS has worked closely with the Virginia Dental Association, DentaQuest (the Virginia Medicaid Dental Benefits Administrator) and the Virginia Retirement System (VRS) in planning for the implementation of this bill. Although considerable start-up planning has taken place, DMAS does not have administrative funding specifically designated by the General Assembly to allocate toward the start-up and ongoing administration of this new program.
- VRS has provided ongoing technical assistance and support, including a detailed implementation plan in conjunction with its third-party provider, ICMA-RC.

Report to the General Assembly

- Of the 1,972 dental providers in the SFC program, only 20 percent currently receive payments that are eligible for contribution to the Commonwealth's 457 plan due to the provider's payment structure and IRS regulations. Only payments paid to individual providers paid directly by the State, whether reported by Social Security Number (SSN) or Employer Identification Number (EIN), are eligible for contribution to the Commonwealth's 457 plan absent sizeable programming changes.
- DentaQuest estimates that it will cost \$519,000 (general funds) for first year start-up costs with ongoing annual administrative costs of \$68,000 annually. Since the availability of a deferred compensation plan is not a mandated benefit, federal funds are not available for start-up and ongoing administration.

The chronology of the project progress is as follows:

Spring 2014

- VRS staff joined DMAS and DentaQuest in start-up planning to implement HB147. VRS and its third-party administrator provided a detailed implementation plan and timeline.

Summer 2014

- VRS and DMAS surveyed other states (Arkansas, Louisiana, and Mississippi) who allow Medicaid providers to participate in their 457 plans to determine how the plans were administered in the respective states. Arkansas allows providers to defer income from Medicaid services. The payments are paid directly to the individual provider number. Providers bill for Medicaid services in this manner until they reach the deferred compensation contribution limit for the year. Once the contribution limit has been met, for the remainder of the year, Medicaid claims are submitted to the state and paid to the provider number associated with the provider's corporation, clinic or group practice.
- Louisiana operated their program in a manner similar to Arkansas, but has since changed its policy and no longer allows providers to switch between provider numbers. We were told that as a result of this change, participation in Louisiana has declined. In addition, we were told that Mississippi has a low participation rate.

Fall 2014

- DentaQuest research showed that 80 percent of the payments to participating SFC dental providers were made to group practices rather than to individual dentists. VRS determined that, due to IRS regulations, payments made to group practices are not eligible for the Commonwealth's 457 Deferred Compensation Plan.
- Approximately 20 percent of the current SFC providers receive payments to an individual provider SSN or Taxpayer Identification Number (TIN), which are eligible for the Commonwealth's 457 Deferred Compensation 457 plan based on IRS regulations.
- DMAS staff provided an update on the work regarding the deferred compensation plan to members of the DMAS Dental Advisory Committee during the November 21, 2014 meeting.
- DMAS staff submitted a one-page summary to the Agency Director, outlining the issues regarding provisions of who can and cannot participate in the deferred compensation plan. To clarify, all of the participating dentists are eligible to participate in the 457 plan, but due to IRS regulations, only those dentists who are paid under an individual social security number or employer identification number are currently able to participate. Dentists whose payments are submitted to a corporation or partnership are not currently able to participate.



Winter 2014

- DMAS, VRS, DentaQuest and representatives of the Virginia Dental Association met with Delegate O'Bannon to review the status of HB147 implementation.
- Extensive research and planning by VRS, DMAS and DentaQuest was performed in preparation for implementing the participation of SFC dentists in the 457 plan in terms of eligibility, enrollment process, systems changes, communications strategies, etc.

Spring 2015

- The 2015 General Assembly directed DMAS to report on implementation progress of participation of SFC dentists in the 457 Plan by July 1, 2015.
- A Decision Brief was forwarded to the Governor's Office on March 13, 2015 with decision options relating to the implementation of HB147. As a result, DMAS was requested to survey dental providers (as proposed by DMAS) to determine their interest in participating in the Commonwealth's 457 Deferred Compensation Plan and submit a budget decision package for consideration in the Executive Budget for SFY 2017.
- DMAS staff developed a survey via Survey Monkey which was emailed on May 26, 2015 to SFC providers asking about their interest in participating in the 457 Deferred Compensation Plan. The draft was shared with VRS staff and the Executive Director of the Virginia Dental Association.
- At the May 15, 2015, meeting of the Dental Advisory Committee, DMAS provided members with a copy of the deferred compensation interest survey and informed them of its distribution.

Current Actions and Next Steps:

- A survey was developed and distributed to 1,687 **Smiles for Children** participating providers on May 26, 2015. Of the 55 returned responses, 35 dentists stated they would be interested in participating in the program.
- Due to the low response rate, a second survey was conducted for the **Smiles For Children** dental providers in June 2015. This survey was distributed to 1,686 participating providers and responses were received from only 68 providers. Of those, 43 indicated they would be interested in participating, 13 said they would not be interested in participating and 13 said they would possibly be interested.
- An interest survey was distributed to 3,855 Virginia dentists *not participating* in the **Smiles for Children** program in June 2015 to gain insight as to whether the deferred compensation option would be an incentive for them to join the SFC network. Only 117 responses were received and only 25% stated the deferred compensation option would be incentive for them to participate in the SFC network. Another 36% stated they were not interested and the remaining 39% stated they would like more information.
- A budget decision package for the Deferred Compensation Plan is being considered as a part of the 2016-2018 Governor's Executive Budget.
- Based on budget considerations, participation of SFC dentists in the Commonwealth's 457 Deferred Compensation Plan might be implemented by January 1, 2017.

