



# COMMONWEALTH of VIRGINIA

## *Department of Medical Assistance Services*

KAREN KIMSEY  
DIRECTOR

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

September 30, 2021

### MEMORANDUM

**TO:** The Honorable Janet D. Howell  
Chair, Senate Finance Committee

The Honorable Luke E. Torian  
Chair, House Appropriations Committee

The Honorable Mark D. Sickles  
Vice Chair, House Appropriations Committee

**FROM:** Karen Kimsey  
Director, Virginia Department of Medical Assistance Services

**SUBJECT:** Report on Annual Report on the Development of Plan for Section 1115 SMI Waiver Application

This report is submitted in compliance with the Virginia Acts of the Assembly – HB1800, Item 313.DDDDD which states:

*“The Department of Medical Assistance Services shall continue working with the Department of Behavioral Health and Developmental Services to complete the actions necessary to qualify to file a Section 1115 waiver application for Serious Mental Illness and/or Serious Emotional Disturbance. The department shall develop such a waiver application at the appropriate time that shall be consistent with the Addiction Treatment and Recovery Services substance abuse waiver program. The department shall develop a plan with a timeline and potential costs savings of such a waiver to the Commonwealth. The department shall provide an update on the status of the waiver by November 1 of each year to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.”*

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

KK  
Enclosure

Pc: The Honorable Daniel Carey, M.D., Secretary of Health and Human Resources

# Annual Report on the Development of Plan for Section 1115 SMI Waiver Application

A Report to the Virginia General Assembly

November 1, 2021

## Report Mandate:

*Appropriation Act - Item 313 DDDDD. (Regular Session, 2021)*

*The Department of Medical Assistance Services shall continue working with the Department of Behavioral Health and Developmental Services to complete the actions necessary to qualify to file a Section 1115 waiver application for Serious Mental Illness and/or Serious Emotional Disturbance. The department shall develop such a waiver application at the appropriate time that shall be consistent with the Addiction Treatment and Recovery Services substance abuse waiver program. The department shall develop a plan with a timeline and potential costs savings of such a waiver to the Commonwealth. The department shall provide an update on the status of the waiver by November 1 of each year to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.*

## Background and Summary

Medicaid is the largest payer of behavioral health (BH) services in the Commonwealth and spent \$862 million on these services in 2017. BH services are an essential part of whole-person healthcare within the Medicaid program, as nearly 1/3 of members have a BH diagnosis. While BH services play a critical role in the wellness of members, the current array of services available through Virginia's State Plan is outdated, lacks integration of robust community-based services and evidence-based practices and has not manifested strong outcomes. Virginia's Medicaid-funded BH services are characterized by an overreliance on intensive treatment services and underdeveloped opportunities for prevention and early intervention. The current service system is not structured to effectively manage member needs, promote the implementation of gold-standard practices, support alleviation of the significant psychiatric bed crisis, or successfully align with other state investments to improve access to high quality services (e.g. STEP-VA, Families First Prevention Services Act Implementation, Department of Juvenile Justice transformation, Department of Education school-based health services task force). Virginia currently ranks 39th in the country for mental health care access and 41st in terms of licensed mental health workforce supply. To improve Virginia's BH system functioning and promote resiliency and recovery for Medicaid members, changes to the current service structure and adjustment to rates that support new services and promote fidelity to best practice standards are imperative initial steps.

On November 13, 2018 the Centers for Medicare and Medicaid Services (CMS) published a letter for State Medicaid Directors announcing an opportunity for states to apply for demonstration projects under section 1115(a) of the Social Security Act

## About DMAS and Medicaid

***DMAS's mission is to improve the health and well-being of Virginians through access to high-quality health care coverage.***

DMAS administers Virginia's Medicaid and CHIP programs for more than 1.8 million Virginians. Members have access to primary and specialty health services, inpatient care, dental, behavioral health as well as addiction and recovery treatment services. In addition, Medicaid long-term services and supports enable thousands of Virginians to remain in their homes or to access residential and nursing home care.

Medicaid members historically have included children, pregnant women, parents and caretakers, older adults, and individuals with disabilities. In 2019, Virginia expanded the Medicaid eligibility rules to make health care coverage available to more than 500,000 newly eligible, low-income adults.

Medicaid and CHIP (known in Virginia as Family Access to Medical Insurance Security, or FAMIS) are jointly funded by Virginia and the federal government under Title XIX and Title XXI of the Social Security Act. Virginia generally receives a dollar-for-dollar federal spending match in the Medicaid program. Medicaid expansion qualifies the Commonwealth for a federal funding match of no less than 90 percent for newly eligible adults, generating cost savings that benefit the overall state budget.

to improve care for adults with Serious Mental Illness (SMI) or children with Serious Emotional Disturbance (SED). This letter detailed the primary goals of the opportunity, including reduced utilization and lengths of stay in Emergency Departments among Medicaid members with SMI or SED awaiting mental health treatment in specialized settings and reduced preventable re-admissions to acute care hospitals and residential settings. This demonstration opportunity would allow the Commonwealth, upon CMS approval, the authority to waive the institutions for mental diseases (IMD) exclusion and receive federal financial participation (FFP) for services provided to members during short term stays for acute care in psychiatric hospitals or residential treatment settings that qualify as Institutes of Mental Disease (IMDs). Approval of this waiver would be of potential benefit to the Commonwealth as the payment exclusion for services provided to members while residing in IMDs can be a barrier to ensuring access to acute care and may present an exacerbating factor in our state psychiatric bed crisis.

In the letter to Directors, CMS set forth expectations for states in their applications of this waiver opportunity. These include:

- The proposed project must be budget neutral to the federal government;
- States participating must commit to taking a number of actions to improve community-based services and those improvements should be linked to a set of goals for the SMI/SED demonstration opportunity.
  - These improvements include improving connections to community-based care following acute care treatment, and implementation of a full array of crisis stabilization services
- Applications will consider state funding for outpatient community based mental health services to assure the waiver opportunity would not create disproportionate draw to inpatient and residential levels of care;
- Applications should include a thorough assessment of current access to mental health services throughout the state and in particular, crisis stabilization services.

**Application Progress to Date**

The Department of Medical Assistance Services intends to apply for the 1115 SMI Waiver Opportunity and within weeks of the letter release in 2018, spoke directly with CMS in regards to our interest in applying and the steps that would be necessary for us to be eligible for the application and likely to receive approval. CMS indicated at that time that we would need to move forward and demonstrate actions and outcomes related to the enhancement of our current community-based continuum of behavioral health services, including crisis services.

At the time of the letter release in 2018, DMAS had plans in motion for a “redesign” of the behavioral health services in our program to improve quality and access for mental health care. This plan was in keeping with the strong outcomes of the 2017 implementation of the Addiction and Recovery Treatment Services (ARTS) benefit for Substance Use Disorders (SUD) which took advantage of a similar 1115 waiver opportunity to allow for reimbursement of residential services for adult members for SUD treatment and development of services based on standards of the American Society of Addiction Medicine. The following summary provides a timeline of our progress towards becoming eligible to apply for the 1115 SMI waiver and accomplishments to date:

Date of Completion	Readiness Plan Component/Task
September 2018	DMAS hires Behavioral Health Clinical Director who becomes lead on BH “Redesign” proposal development in collaboration with the University of Colorado Farley Center for Health Policy  Stakeholder engagement begins, including stakeholder in person meetings, agency town hall events, stakeholder surveys, data analytic efforts and literature and evidence reviews to support the redesign proposal
October 2018	Continued stakeholder engagement with regular meetings  Proposal briefings with Health and Human Services Secretariat  Alignment coordination with other state agencies with similar efforts towards integration of evidence-based behavioral health services <ul style="list-style-type: none"> <li>• Department of Behavioral Health</li> <li>• Department of Social Services</li> </ul>

	<ul style="list-style-type: none"> <li>• Office of Children’s Services</li> <li>• Department of Juvenile Justice</li> <li>• Department of Education</li> </ul>
November 2018	<p>Release of CMS letter announcing the 1115 SMI-SED Opportunity</p> <p>Internal DMAS review of the opportunity and consideration of application readiness</p>
December 2018	Initial conversation with CMS regarding Virginia interest in application and steps to eligibility
January 2019	Official “redesign” proposal and “Continuum” vision document completed, published to DMAS website and presented to stakeholders
May 2019	<p>Service-Specific, State-wide Stakeholder Implementation Workgroup engaged for initial discussions</p> <p>DMAS integrates stakeholder feedback into preliminary service definitions, components and provider qualifications</p>
July 2019	<p>Final State Budget announced, included the following language:</p> <p><i>YYY.1. The Department of Medical Assistance Services shall work with the Department of Behavioral Health and Developmental Services and stakeholders to develop the continuum of evidence-based, trauma-informed, and cost-effective mental health services recommended by the University of Colorado Farley Center for Health Policy that will result in the best outcomes for Medicaid and FAMIS members. This continuum shall include community mental health rehabilitation services (including early intervention services) and integrated behavioral health in primary care and school settings.</i></p> <p><i>2. The department shall develop the necessary waiver(s) and the State Plan amendments under Titles XIX and XXI of the Social Security Act to fulfill this item, including but not limited to, changes to the medical necessity criteria, services covered, provider qualifications, and reimbursement methodologies and rates for Community Mental Health and Rehabilitation Services. The department shall work with its contractors, the Department of Behavioral Health and Developmental Services, and appropriate stakeholders to develop service definitions, utilization review criteria, provider qualifications, and rates and reimbursement methodologies. The department shall also work with its actuary to model the fiscal impact of the proposed continuum.</i></p> <p><i>3. Prior to the submission of any state plan amendment or waivers to implement these changes, the Department of Medical Assistance Services and Department of Behavioral Health and Developmental Services shall submit a plan detailing the changes in provider rates, new services added and any other programmatic or cost changes to the Chairmen of the House Appropriations and Senate Finance Committees. The departments shall submit this report no later than December 1, 2019.</i></p> <p><i>4. Upon approval of the 2020 General Assembly and the federal Centers for Medicare and Medicaid Services, the department shall have authority to implement these changes.</i></p>
July 2019	<p>Service-Specific, State-wide Stakeholder Implementation Workgroup engaged for formal discussions of service definition, provider qualifications and service components</p> <p>DMAS integrates stakeholder feedback into preliminary drafts for rate study</p> <p>Rate study initiated with actuarial contractor, Mercer</p>
September 2019	<p>Rate study complete for proposal following expedited period of work with Mercer and stakeholders</p> <p>Continued stakeholder engagement through numerous presentations across the state through Associations, Conferences, State Workgroups, Agency meetings and Legislative Committee Meetings</p>

December 2019	<p>Rate study final presentation by Mercer for Stakeholders</p> <p>Behavioral Health Redesign Report submitted to Chairmen of the House Appropriations and Senate Finance Committees per budget language</p> <p>Funding for BH Redesign Services included in the Governor's Proposed Budget</p>
January 2020	<p>Preliminary drafting of State Plan Amendments for new services</p> <p>General Assembly Session begins: Technical Assistance provided to legislators on language in governor's budget related to what was now referred to as the "BH Enhancement" proposal</p>
February 2020	<p>COVID-19 initial concern surfaces in the Commonwealth</p> <p>Work continues towards State Plan Development, Medical Necessity Criteria, and project planning for implementation of Redesign/Enhancement</p>
March 2020	<p>COVID-19 hits Virginia; DMAS staff focus resources on pandemic response and maintain progress towards implementation plan for Enhanced Services</p> <p>Final budget passes from 2020 General Assembly Session.</p>
April 2020	<p>Veto Session of the General Assembly: Funding for Enhancement of Behavioral Health Services are unallotted</p>
November 2020	<p>Funds for Enhancement of Behavioral Health Services re-allotted in re-convening of the Special Session</p>
December 2020	<p>DMAS re-engaged stakeholders and proposed revised implementation timeline</p>
January 2021	<p>Rapid re-engagement of project teams for the Enhancement of Behavioral Health with new plan of implementing Intensive Outpatient Services, Partial Hospitalization Programs and Assertive Community Treatment on 7/1/21 followed by Multi-System Therapy and Functional Family Therapy along with full crisis system services on 12/1/21</p>
July 2021	<p>DMAS began full implementation and reimbursement of Intensive Outpatient Services, Partial Hospitalization Programs and Assertive Community Treatment.</p> <p>Planning for implementation of Comprehensive Crisis Services and Multisystemic Therapy and Functional Family therapy begins with stakeholders.</p>
December 2021	<p>DMAS will begin full implementation and reimbursement of Comprehensive Crisis Services, Multisystemic Therapy and Functional Family Therapy Services.</p>

Under the current plan and with the revised implementation due to pandemic impacts on funding availability, Virginia plans to re-engage CMS in discussion of eligibility for application for the 1115 SMI Waiver in January 2022. At that point in time, DMAS will have launched the new services in line with CMS priorities related to building out evidence-based, and crisis-focused services in the community to avoid over-reliance on higher levels of acute care. However, DMAS does not have budget authority to implement additional community based behavioral health services that may be required by CMS in order to qualify Virginia as a successful applicant for the SMI 1115 waiver. In addition, DMAS does not have a current estimate of potential cost savings to the Commonwealth should we receive approval for this waiver opportunity, as the recent and upcoming changes to our system, including substantial transformation of crisis services will have their own impacts that will need to be assessed as they roll out before impacts of additional levels of care can be estimated with any accuracy. DMAS will most likely require additional time and possible additional legislative authority to implement a broader range of evidence-based services especially for the adult populations before the Commonwealth is eligible to be approved for this transformative 1115 waiver opportunity.

The following timeline is proposed for DMAS to prepare for the application of this waiver in the context of meeting eligibility for the waiver through implementation of Behavioral Health Enhancement:

Estimated Date	Readiness Plan Component/Task
January 2022	DMAS to contact CMS to re-initiate discussion of eligibility and identify any necessary services that would be required in order to qualify as an applicant for the SMI 1115 waiver
February 2022	DMAS to convene stakeholders for preliminary discussion of application and impact on system
July 2022	<p>Drafting of demonstration plan to begin in collaboration with stakeholders, development of legislative proposals related to becoming eligible for the waiver or to prepare for the 1115 waiver application process.</p> <p>Development of annual estimate aggregate expenditures by population group to develop require baseline cost data that includes estimates based on first year / 6 months of new services</p> <p>Engagement with CMS to determine feasibility of budget neutrality models</p> <p>Development of enrollment data including historical and projected coverage</p> <p>Development of required research hypotheses related to the demonstrations' proposed changes, goals and objectives and methodological plan for testing hypothesis including evaluation indicators</p> <p>Assess delivery system changes necessary for implementation of the 1115 waiver</p>
August, 2022	Submission of agency decision packages related to the 1115 waiver and BHE system changes
January 2023	Legislative approvals related to preparation for the waiver application assessed and decided in the 2023 General Assembly