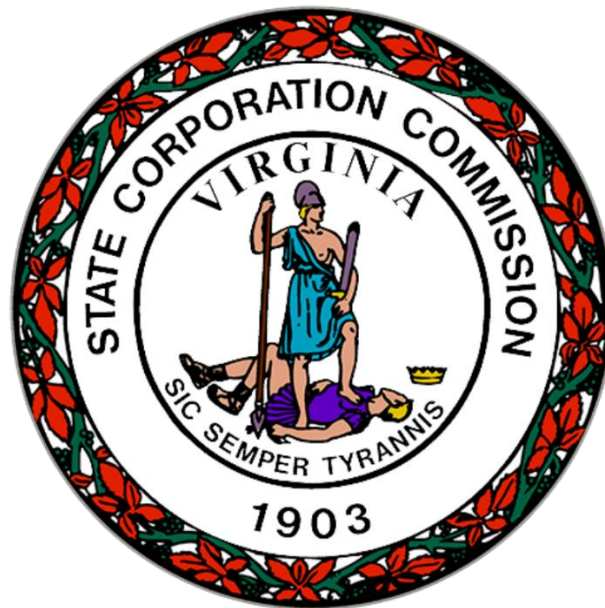


Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan

*Submitted to the
Chairs of the Senate Finance & Appropriations Committee and
the House of Delegates Appropriations Committee,
Chair and Members of the Health Insurance Reform Commission*



November 1, 2022

COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

P.O. BOX 1157
RICHMOND, VIRGINIA 23218
1300 E. MAIN STREET
RICHMOND, VIRGINIA 23219
TELEPHONE: (804) 371-9741
scc.virginia.gov

November 1, 2022

The Honorable George L. Barker
Chair, Health Insurance Reform Commission

The Honorable Janet D. Howell
Chair, Senate Finance & Appropriations Committee

The Honorable Barry D. Knight
Chair, House Appropriations Committee

Members of the Health Insurance Reform Commission

Dear Chairs Barker, Howell, Knight, and Members of the Health Insurance Reform Commission:

On behalf of the State Corporation Commission, the Bureau of Insurance (BOI) submits the attached reports pursuant to Item 493 D from the 2022 Special Session I Budget Bill – HB 30 (Chapter 2), which instructed the BOI to “study and analyze the Commonwealth's options for potential implementation in 2025 of a new Essential Health Benefit (EHB) benchmark plan for individual and small group health insurance coverage that comply with federal regulations 45 CFR 156.111.”

Virginia's current Essential Health Benefits benchmark plan (EHB BP) has been in place since 2017. It establishes the minimum level of benefits that individual and small group health insurance policies must provide pursuant to § 38.2-3451 of the Code of Virginia (the Code). The number of persons covered under these policies represents roughly 6% of the Virginia population (about 560,000 individuals). Under federal law, states may, but are not required to, change their EHB BP for future years. Without a change, Virginia's EHB BP will remain constant.

This letter sets out: (1) a summary of each phase of the reports, (2) certain considerations for best practices in the state development of an EHB BP, and (3) a timeline of next steps.

1. **Description of the Reports**

a. **Phase I: Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan and Comparison to Neighboring Jurisdictions**

The BOI directed its contracted actuarial firm, NovaRest, Inc., to prepare the reports. NovaRest conducted two phases of analysis. In the first phase, it prepared a report reviewing recent changes other states have made to their EHB BPs as well as the extent of coverage provided under Virginia's current EHB BP in comparison with neighboring states specifically. NovaRest's first phase report includes the following highlights:

- As compared to the majority of neighboring states, Virginia's EHB BP does not provide the following three benefits:

- Oral Surgery – removal of impacted teeth
- Bariatric/Obesity Surgery
- Hearing Aids for Minors
- The Virginia EHB BP covers one benefit that is not covered in most of the neighboring states:
 - Wigs & Scalp Prosthetics for Hair Loss Due to Chemotherapy
- In comparing many of the recent benefits added by other states, not only limited to neighboring states, Virginia’s EHB BP does not specify coverage or exclusion of most newly added benefits, with the exception of the following, which Virginia’s EHB BP specifically excludes:
 - Acupuncture
 - Weight Loss Programs
- Lastly, NovaRest found that states that have made a recent change to their EHB BPs have generally elected to add benefits to their existing EHB BPs. This approach (Option 3, below) constitutes one of three pathways available to states to change their EHB BPs under 45 CFR 156.111(a):
 - Option 1: Select the EHB-benchmark plan that another state used for the 2017 plan year.
 - Option 2: Replace one or more categories of EHBs under its EHB-benchmark plan used for the 2017 plan year with the same category or categories of EHB from the EHB-benchmark plan that another state used for the 2017 plan year.
 - Option 3: Otherwise select a set of benefits that would become the state’s EHB-benchmark plan.

b. Phase II: Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan and Potential Cost Impacts

NovaRest’s second phase report addresses the extent to which benefits may be added to the current EHB BP. When a state opts to revise its EHB BP, 45 CFR 156.111(b)(2) require two important considerations that should be part of the new plan:

- The new EHB BP provides benefits that are at least equal to the scope of benefits in a typical employer plan (of which the current Virginia EHB BP is an example); and
- The new EHB BP is not more generous than the most generous EHB BP option the state had in 2017.

NovaRest completed a preliminary cost analysis and found that Virginia is able to add benefits that total up to \$2.56 Per Member Per Month (PMPM) to its EHB BP without exceeding its most generous EHB BP option. Further, NovaRest indicated that given the time constraints and information available, they could perform a preliminary cost analysis for three to four additional benefits. The BOI selected four benefits that were recently recommended by the Health Insurance Reform Commission (HIRC):

- Oral Enteral Formula and Nutrition Products
- Donated Human Breast Milk
- Enhanced Prosthetics

- Hearing Aids

The preliminary cost estimate to add the above four benefits to Virginia's current EHB BP is \$0.87 PMPM.

2. Authority to Select the EHB BP

Under existing state law, no one entity is explicitly given the responsibility of selecting and updating the EHB BP. In 2012 and 2015 the Governor made the decisions to select the EHB BP.

3. Timeline for a New EHB BP

Under federal rules, any update to the EHB BP requires federal review and approval with a deadline for final submission of the proposed EHB BP by the first Wednesday in May two years prior to the effective date of the new EHB BP. The below chart outlines next steps in meeting this deadline should Virginia decide to request to establish a new EHB BP in 2025.

Timeline for a New EHB BP for 2025	
by November 30, 2022	<i>Appropriate state body will determine if application will be made for a change to the EHB BP for 2025 and what benefit change(s) will be further explored.</i>
<i>If a New EHB BP will be pursued for 2025:</i>	
December 2022	<i>BOI/NovaRest will survey plans to get information for full actuarial analysis of potential change(s) in EHB BP, to include any new or revised benefits compared to those already reviewed.</i>
January 2023	<i>BOI/NovaRest to present actuarial analysis of proposed EHB BP to appropriate state body.</i>
by February 14, 2023	<i>Appropriate state body makes final decision on any EHB BP changes.</i>
March 1-March 31, 2023	<i>Public notice and comment.</i>
April 2023	<i>BOI/NovaRest prepare and submit application to CMS.</i>

By this correspondence, these reports are being provided to you and will be posted on the SCC's website.

Respectfully submitted,



Scott A. White
Commissioner of Insurance

Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

September 2022

Prepared by:

Amanda Rocha

Donna Novak, FCA, ASA, MAAA, MBA

Keith A Epperson, ASA, MAAA

Richard Cadwell, ASA, MAAA

Table of Contents

Project Description.....	3
Background of ACA Essential Health Benefits.....	4
Guidance and Requirements for Changing EHB BPs.....	4
Excluded Benefits.....	5
Neighboring State EHB BPs.....	5
Newly Updated State EHB BPs.....	8
Other Benefits to Consider.....	11
Reliance.....	12
Appendix I Comparison Tables with all Benefits.....	13
Appendix II Comparison Tables with Benefits Specifically Excluded in Virginia.....	20
Appendix III Comparison Tables with Benefits Neither Specifically Covered nor Excluded.....	22
Appendix IV Comparison Tables with Benefits Specifically Stated as Covered in Virginia.....	25

Virginia is interested in reviewing its Essential Health Benefits Benchmark Plan (EHB BP). To facilitate this review the Virginia Bureau of Insurance (BOI) has hired NovaRest to assist in analyzing potential changes to the current Virginia EHB BP.

Project Description

This project will consist of three phases.

1. The first phase will look at the benefits included in the EHB BPs of neighboring states. This will allow Virginia to select the benefits that it would like to consider adding or eliminating for the current EHB BP.
2. The second phase will quantify the cost of the benefits being considered for the Virginia revised EHB BP using prior studies in Virginia or other states. This will allow Virginia to select the changes that it will make to the EHB BP.
3. The third phase, if it is decided to go forward, will be to gather data from Virginia carriers to perform a more accurate cost analysis of the changes to the EHB BP to ensure that the new plan will meet the CMS requirements. This phase will result in an application to CMS for a revised EHB BP.

This report is the result of the first phase to review the EHB BPs of neighboring jurisdictions and determine if there are any benefits included in neighboring EHB BPs that Virginia does not currently cover and if there are benefits in the Virginia EHB BP that are not included in the neighboring EHB BPs. We relied on the EHB BP information provided on the CMS website to perform the analysis,¹ in addition to discussions with the Virginia BOI.

This report first describes the process used to select the EHB BP using the method laid out in ACA for the original EHB BP selection and the current CMS guidelines for changing the EHB BP. This background provides the requirements for the new EHB BP.

After the background material, this report provides a grid of the Virginia EHB BP and the EHB BPs for surrounding jurisdictions which include Delaware (DE), District of Columbia (DC), Kentucky (KY), Maryland (MD), North Carolina (NC), Tennessee (TN), and West Virginia (WV). Additionally, we included information on the benefits added recently to other states' EHB BPs, including Colorado (CO), Illinois (IL), Michigan (MI), New Mexico (NM), Oregon (OR), and South Dakota (SD).

¹ <https://www.cms.gov/CCIIO/Resources/Data-Resources/ehb>
Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

Background of ACA Essential Health Benefits

The Affordable Care Act requires non-grandfathered health plans in the individual and small group markets to cover essential health benefits (EHB), which include items and services in the following ten benefit categories: (1) ambulatory patient services; (2) emergency services; (3) hospitalization; (4) maternity and newborn care; (5) mental health and substance use disorder services including behavioral health treatment; (6) prescription drugs; (7) rehabilitative and habilitative services and devices; (8) laboratory services; (9) preventive and wellness services and chronic disease management; and (10) pediatric services, including oral and vision care.

The Department of Health and Human Services (HHS) gave the states the freedom to model their EHB BP (i.e., the plan that serves as a minimum standard on which all new plans are modeled, including the specifics in terms of how essential health benefits are covered) for individuals and businesses on either:

- one of the three small group plans in their state that boasts the largest enrollment, or
- one of the three most popular state employee plans, or
- one of the three federal employee health plan options with the largest enrollment in the state, or
- the most popular HMO plan in the state's commercial market.

Guidance and Requirements for Changing EHB BPs²

Under 45 CFR 156.111 in the Notice of Benefit and Payment Parameters for 2019 Final Rule (2019 Payment Notice) finalized on April 9, 2018,³ CMS finalized that states may select a new EHB BP for plan years beginning on or after January 1, 2020. The Final 2019 Notice of Benefits and Payment Parameters provides States with greater flexibility by establishing standards for states to update their EHB BP. CMS provides states three (3) options for selection as of plan year 2020, including:⁴

- Option 1: Selecting the EHB BP that another state used for the 2017 plan year.
- Option 2: Replacing one or more categories of EHBs under its EHB BP used for the 2017 plan year with the same category or categories of EHB from the EHB BP that another state used for the 2017 plan year.
- Option 3: Otherwise selecting a set of benefits that would become the state's EHB BP.

If a state opts to select a new EHB BP utilizing any of the selection options at 45 CFR 156.111(a), the state is required under 45 CFR 156.111(e)(2)(i) and (ii) to submit an actuarial certification and associated actuarial report from an actuary, who is a member of the American Academy of Actuaries, in accordance with generally accepted actuarial principles and methodologies.

² Final-Example-Acceptable-Methodology-for-Comparing-Benefits.pdf

³ A copy of the final rule is available on the Center for Consumer Information and Insurance Oversight website at: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/index.html>.

⁴ <https://www.govinfo.gov/content/pkg/FR-2018-04-17/pdf/2018-07355.pdf>

Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

This actuarial certification and associated actuarial report must affirm that the state’s EHB BP:⁵

- Provides a scope of benefits that is equal to, or greater than, to the extent any supplementation is required to provide coverage within each EHB category at 45 CFR 156.110(a), the scope of benefits provided under a typical employer plan (“Typical Employer Plan”), as defined at 45 CFR 156.111(b)(2)(i), and
- Does not exceed the generosity of the most generous among the plans (“Comparison Plans”) listed at 45 CFR 156.111(b)(2)(ii)(A) and (B). This set of comparison plans for purposes of the generosity standard includes the state’s EHB BP used for the 2017 plan year, and any of the state’s base-benchmark small-group plan options used for the 2017 plan year described in 45 CFR 156.100(a)(1), supplemented as necessary under 45 CFR 156.110.⁶

Excluded Benefits

Pursuant to 45 CFR 156.115, the following benefits are excluded from being Essential Health Benefits (EHBs) even though an EHB BP may cover them⁷:

- routine non-pediatric dental services,
- routine non-pediatric eye exam services,
- long-term/custodial nursing home care benefits,
- non-medically necessary orthodontia.

Additionally, section 156.115(c) provides that no health plan is required to cover abortion services as part of the requirement to cover EHBs. Because these benefits cannot be EHBs, we did not consider them in our analysis.

Neighboring State EHB BPs

Issues with Comparing EHBs

The information presented on state EHB BPs is from CMS.⁸ The descriptions of the benefits in the EHB BPs are not always comparable. We include the type of benefit, but what is not included in the data from CMS are any limitations on utilization or details of specific treatments available for the benefit. For example, we consider Private Duty Nursing covered for Virginia, however, the EHB BP limits to 16 hours per benefit period while the DE EHB BP covers up to 240 hours per year. So even though both are considered covered, there is a difference in the coverage. Reviewing benefit differences at a detailed level is considered outside of the scope of this report. Additionally, the materials do not always specify all benefits and our benefits grid

⁵ Ibid

⁶ The states’ EHB BP used for the 2017 plan year are based on plans from the 2015 plan year, but CMS occasionally refers to them as 2017 plans because these plans are applicable as the states’ EHB BP for plan years beginning in 2017.

⁷ <https://www.cms.gov/CCIIO/Resources/Data-Resources/ehb>

⁸ Links to the EHB BPs for each state can be found on website, [Information on Essential Health Benefits \(EHB\) Benchmark Plans | CMS](#)

Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

does not consider all potentially available benefits and services although we believe it is comprehensive. We have used our best judgement as to whether we consider a benefit covered or not. If Virginia is interested in adding a particular benefit, it would have to make those decisions based on the Virginia market needs.

Summary

The tables comparing the EHB BPs between Virginia and the neighboring states are in Appendix I Comparison Tables.

There are three benefits that are covered in the majority⁹ of the neighboring states and not in Virginia. These three are:

- Oral Surgery – removal of impacted teeth
 - This is currently covered as a Pediatric Dental benefit, however, for adults the Virginia EHB BP specifically mentions surgery for impacted teeth as an excluded benefit.¹⁰ Six of the 7 other states mentioned discuss oral surgery for impactions, at least for children. It appears 4 of the states cover for adults as well.
 - The VA BOI provided a sample of dental statement of benefits, which appear to show coverage for this benefit, however, it does not appear to be covered by the medical policies under the EHB BP.
- Bariatric/Obesity Surgery
 - The Virginia EHB BP specifically mentions surgery for bariatric surgery as an excluded benefit. Four of the 7 other states cover bariatric/obesity surgery at least when medically necessary.
- Hearing Aids (less than age 18)
 - The Virginia EHB BP specifically mentions hearing aids as an excluded benefit (not including cochlear implants). Five of the 7 other states cover hearing aids for minors at least when medically necessary. Three of the states cover until age 18, NC covers until age 22, DE covers until age 24, and KY covers for all ages. We are unclear if the benefit in other states must now apply to all ages considering the revised federal discrimination rules.

⁹ We considered a majority 4 of the 7 states, but often it was just 4 of the states that did not include the benefit in its EHB BP.

¹⁰ <https://scc.virginia.gov/getattachment/0c71fa06-32c4-47cf-a4f9-313bf059230c/ehbfillin-2022.pdf>
Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

There are three benefits that may or may not be covered in Virginia and are explicitly covered in the majority of neighboring states. These benefits are:

- Habilitation for congenital or birth defect
 - All states including Virginia cover surgery for correction, but 4 of the 7 states also cover habilitative benefits.
 - The EHB BP covers “habilitative services that help you keep, learn or improve skills and functioning for daily living. Examples include therapy for a child who isn’t walking or talking at the expected age. These services may include physical and occupational therapy, speech-language pathology, medical devices, and other services for people with disabilities in a variety of inpatient and/or outpatient settings.” We are unclear if this would apply to congenital or birth defect.
 - The benefit is not explicitly excluded
- Osteoporosis screening
 - The Virginia EHB BP is silent on osteoporosis screening, but 4 of the 7 states appear to cover osteoporosis screening. We note this is covered by plans at no cost as part of federally required Women’s Preventive Services¹¹, although we are unclear if this applies to men under the updated federal discrimination rules.
- Pediatric refraction and glaucoma screening
 - The Virginia EHB BP is silent on pediatric refraction and glaucoma screening, but 4 of the 7 states appear to cover the benefit. The Virginia plan does exclude surgery to fix errors of refraction.
 - The Virginia BOI provided a sample of benefit policies offered in the market, most of which appear to cover infantile glaucoma screening and some mention refractions.

There is one benefit covered in Virginia and not in the majority of neighboring states, which is:

- Wigs & Scalp Prosthetics for hair loss due to chemotherapy
 - The Virginia EHB BP covers wigs after cancer treatment. Four of the 7 other states specifically exclude wigs, scalp, or hair prosthesis.

¹¹ https://www.womenspreventivehealth.org/wp-content/uploads/FINAL_WPSI_WWC_11x17_2022Update.pdf
Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

Newly Updated State EHB BPs

Illinois

For the 2020 plan year, Illinois updated its EHB BP. Illinois added benefits intended to improve opioid use treatment. The new added benefits are as follows:

1. Within the prescription drug benefit category, provide benefits for at least one intranasal opioid reversal agent for initial prescriptions of opioids with dosages of 50 MME.

The Virginia EHB BP is silent on this issue.

2. Within the prescription drug benefit category, add a required category to the formulary for topical anti-inflammatory medication, such as Ketoprofen or Diclofenac, for acute and chronic pain.

This benefit is available in Virginia as the topical anti-inflammatory medication Diclofenac and is available over-the-counter.¹²

3. Within the prescription drug benefit category, provide short-term opioid prescriptions for acute pain shall be provided for no more than 7 days.

The Virginia EHB BP is silent on this issue. Virginia medical prescribing requirements address limitations.¹³

4. Within the prescription drug benefit category, remove barriers to prescribing Buprenorphine products for medication-assisted treatment (MAT) of opioid use disorder. This should include removing prior authorization, dispensing limits, fail first policies and lifetime limit requirements.

The Virginia EHB BP is silent on this issue since medical review requirements are not dictated by EHBs. Medical review requirements can be mandated without requiring a change to the EHB BPs.

5. Within the access to care category, add a requirement that telepsychiatry care (by both a prescriber and a therapist) become a covered benefit.

The Virginia EHB BP currently covers telemedicine.

¹² [FDA Approves Three Drugs for Nonprescription Use Through Rx-to-OTC Switch Process | FDA](#)

¹³

<https://law.lis.virginia.gov/admincode/title18/agency90/chapter40/section160/#:~:text=1.,documented%20in%20the%20medical%20record.>

Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

South Dakota

For the 2021 plan year, South Dakota updated its EHB BP. South Dakota added Applied Behavior Analysis (ABA) coverage to its habilitative services.

The Virginia EHB BP is silent on autism benefits. However, state law defines autism as a mental health condition and autism services must be covered.¹⁴ Additionally, Virginia administrative letter 2022-02 further reiterates that ABA is covered as an EHB due to the federal Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) rules.

Oregon

For the 2022 plan year, Oregon added the following benefits to its EHB BP.

1. Up to 20 Spinal Manipulation visits per plan year

The Virginia EHB BP covers 30 chiropractic & spinal manipulation visits per benefit period.

2. Up to 12 Acupuncture visits per plan year

The Virginia EHB BP excludes acupuncture.

3. Removal of barriers to prescribing Buprenorphine or brand equivalent products for medication-assisted treatment of opioid use disorder.

The Virginia EHB BP is silent on this issue since medical review requirements are not dictated by EHBs. Medical review requirements can be mandated without requiring a change to the EHB BPs.

4. Coverage of at least one intranasal spray opioid reversal agent when prescriptions of opioids are dosages of 50MME or higher.

The Virginia EHB BP is silent on this issue.

¹⁴ [§ 38.2-3418.17. Coverage for autism spectrum disorder \(virginia.gov\)](#)

Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

New Mexico

For the 2022 plan year, New Mexico updated its EHB BP. The following changes in benefits offered are relative to the current (2017) New Mexico EHB BP:

1. Adding Artery Calcification Testing

The Virginia EHB BP is silent on this issue.

2. Removing the benefit limit on Prosthetics (currently 1 device per year) and instead requiring medical necessity.

The Virginia EHB BP currently covers prosthetics when medically necessary.

3. Extending coverage for Weight Loss to cover Obese members (currently covers Morbidly Obese only).

The Virginia EHB BP excludes weight loss programs.

Colorado

For the 2023 plan year Colorado updated its EHB BP. The following changes in benefits offered are relative to the current (2017) Colorado EHB BP:

1. Adding acupuncture

The Virginia EHB BP excludes acupuncture.

2. Adding gender affirming care

The Virginia EHB BP is silent on this service, but it is addressed in proposed federal rules.¹⁵

3. Adding a mental wellness exam

The Virginia EHB BP does not discuss a mental wellness exam, however, covered services include individual psychotherapy, group psychotherapy, psychological testing and medication management visits

4. Expanding the required number of drugs covered for certain United States Pharmacopeia (USP) classes, also referred to as ‘Alternatives to Opioids’ or ALTOs.

The Virginia EHB BP is silent on ALTOs.

¹⁵ [Federal Register: Nondiscrimination in Health Programs and Activities](#)

Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

Michigan

For the 2023 plan year, Michigan updated its EHB BP. Michigan is proposing to require the following benefits to its EHB BP in the mental health/substance abuse EHB category.

1. Coverage of at least one intranasal spray opioid reversal agent when prescriptions of opioids are dosages of 50MME or higher.

The Virginia EHB BP is silent on this issue.

2. Removal of barriers to prescribing Buprenorphine or generic equivalent products for medication-assisted treatment of opioid use disorder.

The Virginia EHB BP is silent on this issue; however, medical review requirements are not dictated by EHBs. Medical review requirements can be mandated without requiring a change to the EHB BPs.

Other Benefits to Consider

Based upon recent legislation in the Virginia General Assembly that was recommended by the Health Insurance Reform Commission, Virginia is also interested in investigating the following 4 benefits.

1. Oral Enteral Nutrition

Specifically, Virginia is interested in adding a benefit for medically necessary oral formula and enteral nutrition products for persons with inherited metabolic disorder. The formula or enteral nutrition product does not need to be the primary source of nutrition but must be a critical source of nutrition. An enteral benefit by infusion as the primary source of nutrition is covered by the current EHB BP. The other states do not discuss the oral formula benefit.

2. Donor Breast Milk

Only Kentucky's EHB BP discusses donor breast milk, and it is an excluded benefit.

3. Hearing Aids

As discussed earlier in the report, the Virginia EHB BP currently excludes hearing aids for all ages, but 5 of the 7 states cover up to age 18. North Carolina covers to age 22, and Delaware covers to age 24. We are unclear if the new federal discrimination rules will expand this benefit to all ages. Only Kentucky covers for all ages.

4. Prosthetics

Medically necessary prosthetics are covered in all states, including in the Virginia EHB BP, however, Virginia is interested in expanding coverage to more advanced prosthetic devices that are medically appropriate.¹⁶ All other jurisdictions we considered also only

¹⁶ "Medically necessary" includes myoelectric, biomechanical, and microprocessor-controlled prosthetic devices when medically appropriate.

cover medically necessary prosthetics, however, the definition of medically necessary may vary. Generally, the least expensive prosthetic to meet a patient's needs is covered in all states. Maryland and the District of Columbia were the only states where the EHB BP Certificate of Coverage discussed microprocessor prosthetics, stating they are subject to prior authorization for a determination of medical necessity. The other jurisdictions do not mention microprocessor prosthetics in their EHB BP Certification of Coverage.

Generally, based on NovaRest's experience with interviewing medical professionals, microprocessor-controlled knee prosthetics are most likely to be considered medically necessary depending on a patient's age and functional level. Upper body and ankle/foot prosthetics are less likely to be considered medically necessary.

Reliance

We relied on the EHB BP information provided on the CMS website to perform the analysis,¹⁷ in addition to discussions with the Virginia BOI. Where information was provided, we have included links. We did not perform an independent investigation or verification. If this information was in any way inaccurate, incomplete, or out of date, the findings and conclusions in this report may require revision.

Our analysis determined if a benefit or service was explicitly included or excluded in each jurisdiction's EHB BP documents provided on the CMS website. The EHB BP only specifies the minimum coverage for the individual and small group ACA markets. Issuers may cover benefits which are not covered by the EHB BP. Additionally, benefit mandates which were passed after the EHB BP was selected may not be reflected. The descriptions of the benefits in the EHB BPs are not always comparable. We include the type of benefit, but what is not included in the data from CMS are any limitations on utilization or details of specific treatments available for the benefit.

¹⁷ [Information on Essential Health Benefits \(EHB\) Benchmark Plans | CMS](#)

Appendix I Comparison Tables with all Benefits

The following compares the EHB BP documents¹⁸ by jurisdiction to a NovaRest developed benefit grid to determine if a benefit is covered or not covered. Many benefits were not discussed in the EHB BP documents, so we were unable to determine if the benefit is covered or not covered. Please note, this analysis is done specifically on the EHB BP documents. We did not survey carriers to determine coverage or consider United States Preventive Task Force Recommendations, which may affect coverage.

In the following tables,

- **n/c** indicates that the benefit is not covered,
- **c** indicates that the benefit is covered by the EHB BP,
- a blank indicates that there is no information from CMS or the explanations of coverage that we reviewed indicating that the benefit was covered or not, and
- The **yellow** highlighting is used to identify the benefits we have discussed in more detail above.

Not all benefits discussed above are included in the benefit grid because they are a more granular level of benefit than is included in the benefit grid below. For example, opioid reversal agents would be included in Prescription Drugs, but we do not list each covered Prescription Drug.

¹⁸ <https://www.cms.gov/CCIIO/Resources/Data-Resources/ehb>
Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

I Ambulatory Patient Services

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Acupressure			n/c	n/c		n/c		
Acupuncture	n/c	n/c	n/c	n/c	C	n/c	n/c	n/c
Allergy Services	C	C	C	C	C	C	C	C
Basic dental services (fillings, periodontal disease, etc.) - Child	C	C	C	C	C	C	C	C
Biofeedback	n/c		n/c	n/c		C		
Chemotherapy	C	C	C	C	C	C	C	C
Chiropractor Services	C	C	C	C	C	C	C	C
Cosmetic Surgery	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c
Craniomandibular Disorders	C			C	C			C
Dental Services Related to Accident	C	C	C	C	C	C	C	C
Diagnostic Services	C	C	C	C	C	C	C	C
Enteral Formula by Infusion	C	C		n/c				
Eyeglasses or contact lenses following a covered cataract surgery	C		n/c			C	C	
Hearing Exams for Hearing Aid Fitting	n/c		C	C		n/c		
Home Health Care	C	C	C	C	C	C	C	C
Home Infusion Therapy	C	C	C	C	C	C	C	C
Hospice	C	C	C	C	C	C	C	C
Fertility - Artificial insemination	n/c	n/c	n/c	n/c	C	n/c	n/c	n/c
Fertility - Donor eggs, sperm	n/c	n/c	n/c	n/c	n/c	n/c		n/c
Fertility - In vitro fertilization	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c
Fertility - Services to diagnose fertility	C	C		C	C	C	C	C
Fertility - Services to treat cause of infertility	C	n/c	n/c	C	C	C		C
Fertility - Preimplant genetic diagnosis testing	C							
Nutritional Counseling - Preventive	C	C	C	C	C	C	C	C
Nutritional Counseling - Anorexia					C		n/c	C
Nutritional Counseling - Bulimia					C		n/c	C
Nutritional Counseling - Chronic Renal Failure					C		n/c	C
Nutritional Counseling - Diabetes	C	C	n/c	C	C	C	C	C
Nutritional Counseling - Gestational Diabetes	C	C						C
Nutritional Counseling - Hyperlipidemia							C	
Nutritional Counseling - Hypertension							C	
Nutritional Counseling - Obesity			C		C	C	C	
Nutritional Counseling - Phenylketonuria (PKU)				C			n/c	
Nutritional Supplements (not to sustain life)	n/c		n/c	n/c	n/c			n/c
Oral Enteral Formula								
Oral Surgery – removal of impacted teeth	n/c	n/c	C	C	C	C	n/c	C
Oral Surgery for Cleft Lip/Palate	C	C	C	C	C	C		n/c
Orthodontia - Child	C	C	C	C	C	C	C	C
Orthognathic Surgery (correcting deformities of the jaw)	C	n/c	C	C		C	n/c	n/c
Outpatient Infusion Therapy	C	C	C	C	C	C	C	C
Outpatient Surgery	C	C	C	C	C	C	C	C
Preventive dental services (exams, cleaning) - Child	C	C	C	C	C	C	C	C

Primary Care Visit to Treat an Injury or Illness	C	C	C	C	C	C	C	C
Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Private Duty Nursing	C	n/c	C	C	n/c	C	n/c	C
Radiation Therapy	C	C	C	C	C	C	C	C
Reconstructive Surgery (non-cosmetic)	C	C	C	C	C	C	C	C
Renal Dialysis	C	C	C	C	C	C	C	C
Routine Foot Care	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c
Specialist Visit	C	C	C	C	C	C	C	C
Surrogacy	n/c			n/c		n/c		n/c
Second opinion (surgery)	C		C	C	C		C	C
Sterilization - Voluntary - Men	C	C			C	C	C	
Sterilization - Voluntary - Women	C				C	C	C	
Sterilization - Voluntary - Reversal of Sterilization	n/c	C	n/c	n/c	n/c	n/c	n/c	n/c
Treatment of Temporomandibular Joint	C	C	n/c	C	C	C	C	C
Urgent Care Services	C	C	C	C	C	C	C	C
Weight Loss Programs	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c

II Emergency Services

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Ambulance – Air	C	C	C	C	C	C	C	C
Ambulance – Ground	C	C	C	C	C	C	C	C
Facility Charges	C	C	C	C	C	C	C	C
Physician Charges	C	C	C	C	C	C	C	C

III Hospitalization

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Bariatric/Obesity Surgery	n/c	n/c	C	n/c	C	C	n/c	C
Inpatient Hospital (includes anesthesia, bed, board, general nursing, diagnostic services and surgery)	C	C	C	C	C	C	C	C
Inpatient Medical	C	C	C	C	C	C	C	C
Medical services related to intoxication				C	C	C		
Medical services related to suicide								
Organ Transplants - Surgery	C	C	C	C	C	C	C	C
Organ Transplants - Delivery of donor organ	C	C	C		C	C	C	C
Organ Transplants - Removal of donor organ	C	C	C	C	C	C	C	C
Organ Transplants - Transportation of recipient	C	C	C		C	C	C	C
Organ Transplants - Lodging	C	C	C		C	C	C	C
Reconstructive Breast Surgery	C	C	C	C	C	C	C	C
Skilled Nursing	C	C	C	C	C	C	C	C

IV Pregnancy, Maternity, and Newborn Care

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Birth centers			C		C			C
Circumcision	C							C
Complications of pregnancy	C			C	C	C	C	C
Contraceptives - Implanted	C	C			C		C	C
Contraceptives - Injectable	C	C		C	C	C	C	C
Contraceptives - Oral	C	C	C	C	C	C	C	C
Delivery	C	C	C	C	C	C	C	C
Delivery by Mid-wife in home	C		C		C			C
Donor Breast Milk				n/c				
Medically necessary abortion	C	C	C	C	C	C	C	C
Neonatal Intensive Care								
Newborn Child Coverage	C	C	C	C	C	C	C	C
Normal pregnancy, newborn nursery & care	C	C	C	C	C	C	C	C
Post-delivery (mothers & newborn)	C	C	C	C	C	C	C	C
Post-Partum Care	C	C	C	C	C	C	C	C
Prenatal Care	C	C	C	C	C	C	C	C

V Mental Health & Substance Use Disorder Services including Behavioral Health Treatment

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Applied Behavior Analysis	C*	C	C	C		n/c		C
Autism Services - Habilitative Therapies	C*	C	C	C	C		C	C
Autism Services - Rehabilitative Therapies	C*		C	C	C		C	C
Detoxification	C	C	C	C	C	C		C
Group psychotherapy	C			C	C	C		C
Inpatient Mental Health	C	C	C	C	C	C	C	C
Inpatient Substance Use Disorder	C	C	C	C	C	C	C	C
Outpatient Mental Health	C	C	C	C	C	C	C	C
Outpatient Substance Use Disorder	C	C	C	C	C	C	C	C
Learning Disorders/Behavioral Issues		C	n/c	n/c	n/c			n/c
Partial Day Hospitalization	C	C	C	C	C	C	C	C
Psychiatric services	C		C	C	C			C
Psychological Testing	C		C	C	C	C		C
Residential Treatment	C	C	n/c	C	C	C	C	n/c
Supervised Living								

*Required as explained in Administrative Letter [2022-02](https://scc.virginia.gov/getattachment/6b226085-e530-4a13-bfa6-df2a80f71733/AL_22-02.pdf)¹⁹

¹⁹ https://scc.virginia.gov/getattachment/6b226085-e530-4a13-bfa6-df2a80f71733/AL_22-02.pdf
Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

VI Prescription Drug

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Generic Drugs	C	C	C	C	C	C	C	C
Growth Hormones		C		n/c	C			
Infertility Drugs	n/c	n/c	n/c	n/c	C	C	n/c	
Medical Foods	C	C	C	C	C	n/c		
Non-Preferred Brand Drugs	C	C	C	C	C	C	C	C
Off Label Drugs	C							
Preferred Brand Drugs	C	C	C	C	C	C	C	C
Prenatal Vitamins			n/c	C		C	n/c	
Sexual Dysfunction Drugs	n/c	n/c		n/c	n/c	C	n/c	n/c
Smoking/Tobacco Cessation Drugs	C	C	C	C	C	C	C	C
Specialty Drugs	C	C	C	C	C	C	C	

VII Rehabilitative and Habilitative Services and Devices

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Breast Prosthesis	C		C	C	C	C	C	C
Cardiac Rehabilitation	C	C	C	C	C	C	C	C
Cochlear implants	C	C		C	C			
Diabetes (blood glucose monitors, testing, etc.)	C	C	C	C	C	C	C	C
Enhanced Prosthetics	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c
Habilitation for congenital or birth defect		C	C	C	C			C
Hearing Aids (less than age 18)	n/c	n/c	C	C	C	C	C	n/c
Hearing aids (18 +)	n/c	n/c	C	C	n/c	C	n/c	n/c
Medical Equipment & Supplies	C	C	C	C	C	C	C	C
Medically Necessary Prosthetics	C	C	C	C	C	C	C	C
Occupational Therapy (surgery, injury, illness)	C	C	C	C	C	C	C	C
Orthotics & special footwear	n/c	n/c	n/c	C	n/c	C	n/c	C
Ostomy Supplies	C			C		C		
Outpatient Physical Therapy	C	C	C	C	C	C	C	C
Oxygen	C			C		C		C
Pulmonary Rehabilitation	C	C		C	C	C	C	C
Rehab/Habilitation for disability from medical condition	C	C	C	C	C	C	C	C
Replacement or repair of DME	C	C	C	C	C	C	C	
Respiratory Therapy Services	C		C			C	C	C
Speech Therapy (surgery, injury, or illness)	C	C	C	C	C	C	C	C
Speech Therapy to correct speech impediments	C		C	C	C	n/c		C
Wigs & Scalp Prosthetics for chemo	C	C	C	C	n/c	n/c	n/c	n/c

VIII Laboratory Services

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Diagnostic (Lab, X-ray, Imaging, etc.)	C	C	C	C	C	C	C	C
Genetic Testing	C	C		C	n/c	n/c	C	

Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

IX Preventive and Wellness Services and Chronic Disease Management

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Colorectal Cancer Screening	C	C	C	C	C	C	C	C
Diabetic Education	C	C	n/c	C	C	C	C	C
Mammography	C	C	C	C	C	C	C	C
Osteoporosis screening		C	C		C	C		
Preventive Care for Women	C	C	C	C	C	C	C	C
Minimum one well-woman preventive visit (gynecological exam) annually	C	C	C	C	C	C	C	C
Screening for gestational diabetes between 24 and 28 wks	C							C
Screening for gestational diabetes at 1st prenatal visit at high risk for diabetes	C							
HPV testing > 29 y/o every 3 years if normal pap	C	C			C	C	C	C
Annual counseling on sexually transmitted infections for all sexually active women	C							
Annual screening for HIV for sexually active women	C	C						
Contraceptive methods and counseling	C	C	C	C	C	C	C	C
Lactation support and counseling by a trained provider	C	C			C	n/c	C	C
Rental of Lactation Equipment	C	n/c		C	C	C	C	
Screening & counseling for interpersonal and domestic violence	C							
Preventive Health Mandated by ACA (immunizations, well child and adult care)	C	C	C	C	C	C	C	C
Prostate Specific Antigen (PSA)	C	C	C		C	C		C
Smoking/Tobacco Cessation Services	C	C	C	n/c	C	C	C	C

X Pediatric Services, Including Oral and Vision Care

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Basic dental services (fillings, periodontal disease, etc.)	C	C	C	C	C	C	C	C
Dental anesthesia and hospitalization for dental care to children under age 5, children who are severely disabled or children who have a medical condition that requires hospitalization or general anesthesia.	C	C	C	C	C	C	C	C
Dental Services Related to Accidental Injury	C	C	C	C	C	C	C	C
Dilated eye exam for diabetes related diagnosis	C	C	C	C	C			C
Eyeglasses or contact lenses (Adult Vision cannot be EHB)	C	C	C	C	C	C	C	C
Pediatric Oral Services	C	C	C	C	C	C	C	C
Pediatric Vision Care	C	C	C	C	C	C	C	C
Post-operative refractive examination				n/c				C
Preventive dental services (exams, cleaning)	C	C	C	C	C	C	C	C
Refraction and glaucoma screening		C		C	C		C	
Routine Eye Exams (Adult Vision cannot be EHB)	C	C	C	C	C	C	C	C
Visual training services, including orthoptics and pleoptic training, provided to children under age 10 for the treatment of amblyopia		n/c			n/c	n/c	n/c	

Appendix II Comparison Tables with Benefits Specifically Excluded in Virginia

This section discusses benefits which were specifically stated as excluded by the EHB BP from the Certificate of Coverage.

In the following tables,

- **n/c** indicates that the benefit is not covered,
- **c** indicates that the benefit is covered by the EHB **BP**,
- a blank indicates that there is no information from CMS or the explanations of coverage that we reviewed indicating that the benefit was covered or not, and
- The **yellow** highlighting is used to identify the benefits we have discussed in more detail above.

Not all benefits discussed above are included in the benefit grid because they are a more granular level of benefit than is included in the benefit grid below. For example, opioid reversal agents would be included in Prescription Drugs, but we do not list each covered Prescription Drug.

I Ambulatory Patient Services

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Acupuncture	n/c	n/c	n/c	n/c	c	n/c	n/c	n/c
Biofeedback	n/c		n/c	n/c		c		
Cosmetic Surgery	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c
Hearing Exams for Hearing Aid Fitting	n/c		c	c		n/c		
Fertility - Artificial insemination	n/c	n/c	n/c	n/c	c	n/c	n/c	n/c
Fertility - Donor eggs, sperm	n/c	n/c	n/c	n/c	n/c	n/c		n/c
Fertility - In vitro fertilization	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c
Nutritional Supplements (not to sustain life)	n/c		n/c	n/c	n/c			n/c
Oral Surgery – removal of impacted teeth	n/c	n/c	c	c	c	c	n/c	c
Routine Foot Care	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c
Surrogacy	n/c			n/c		n/c		n/c
Sterilization - Voluntary - Reversal of Sterilization	n/c	c	n/c	n/c	n/c	n/c	n/c	n/c
Weight Loss Programs	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c

III Hospitalization

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Bariatric/Obesity Surgery	n/c	n/c	c	n/c	c	c	n/c	c

VI Prescription Drug

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Infertility Drugs	n/c	n/c	n/c	n/c	c	c	n/c	
Sexual Dysfunction Drugs	n/c	n/c		n/c	n/c	c	n/c	n/c

VII Rehabilitative and Habilitative Services and Devices

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Enhanced Prosthetics	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c
Hearing Aids (less than age 18)	n/c	n/c	c	c	c	c	c	n/c
Hearing aids (18 +)	n/c	n/c	c	c	n/c	c	n/c	n/c
Orthotics & special footwear	n/c	n/c	n/c	c	n/c	c	n/c	c

Appendix III Comparison Tables with Benefits Neither Specifically Covered nor Excluded

This section discusses benefits where we were unable to find examples of these benefits specifically covered or excluded in the EHB BP Certificate of Coverage.

In the following tables,

- **n/c** indicates that the benefit is not covered,
- **c** indicates that the benefit is covered by the EHB BP,
- a blank indicates that there is no information from CMS or the explanations of coverage that we reviewed indicating that the benefit was covered or not, and
- The **yellow** highlighting is used to identify the benefits we have discussed in more detail above.

Not all benefits discussed above are included in the benefit grid because they are a more granular level of benefit than is included in the benefit grid below. For example, opioid reversal agents would be included in Prescription Drugs, but we do not list each covered Prescription Drug.

I Ambulatory Patient Services

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Acupressure			n/c	n/c		n/c		
Nutritional Counseling - Anorexia					c		n/c	c
Nutritional Counseling - Bulimia					c		n/c	c
Nutritional Counseling - Chronic Renal Failure					c		n/c	c
Nutritional Counseling - Hyperlipidemia							c	
Nutritional Counseling - Hypertension							c	
Nutritional Counseling - Obesity			c		c	c	c	
Nutritional Counseling - Phenylketonuria (PKU)				c			n/c	
Oral Enteral Formula								

III Hospitalization

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Medical services related to intoxication				c	c	c		
Medical services related to suicide								

IV Pregnancy, Maternity, and Newborn Care

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Birthing centers			c		c			c
Donor Breast Milk				n/c				
Neonatal Intensive Care								

V Mental Health & Substance Use Disorder Services including Behavioral Health Treatment

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Learning Disorders/Behavioral Issues		c	n/c	n/c	n/c			n/c
Supervised Living								

VI Prescription Drug

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Growth Hormones		c		n/c	c			
Prenatal Vitamins			n/c	c		c	n/c	

VII Rehabilitative and Habilitative Services and Devices

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Habilitation for congenital or birth defect		C	C	C	C			C

IX Preventive and Wellness Services and Chronic Disease Management

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Osteoporosis screening		C	C		C	C		

X Pediatric Services, Including Oral and Vision Care

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Post-operative refractive examination				n/c				C
Refraction and glaucoma screening		C		C	C		C	
Visual training services, including orthoptics and pleoptic training, provided to children under age 10 for the treatment of amblyopia		n/c			n/c	n/c	n/c	

Appendix IV Comparison Tables with Benefits Specifically Stated as Covered in Virginia

This section discusses benefits that were specifically discussed as covered in the EHB BP Certificate of Coverage or were confirmed covered by the Virginia BOI through the EHB checklist or Administrative Letter.

In the following tables,

- **n/c** indicates that the benefit is not covered,
- **c** indicates that the benefit is covered by the EHB BP,
- a blank indicates that there is no information from CMS or the explanations of coverage that we reviewed indicating that the benefit was covered or not, and
- The **yellow** highlighting is used to identify the benefits we have discussed in more detail above.

Not all benefits discussed above are included in the benefit grid because they are a more granular level of benefit than is included in the benefit grid below. For example, opioid reversal agents would be included in Prescription Drugs, but we do not list each covered Prescription Drug.

I Ambulatory Patient Services

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Allergy Services	C	C	C	C	C	C	C	C
Basic dental services (fillings, periodontal disease, etc.) - Child	C	C	C	C	C	C	C	C
Chemotherapy	C	C	C	C	C	C	C	C
Chiropractor Services	C	C	C	C	C	C	C	C
Craniomandibular Disorders	C			C	C			C
Dental Services Related to Accident	C	C	C	C	C	C	C	C
Diagnostic Services	C	C	C	C	C	C	C	C
Enteral Formula by Infusion	C	C		n/c				
Eyeglasses or contact lenses following a covered cataract surgery	C		n/c			C	C	
Home Health Care	C	C	C	C	C	C	C	C
Home Infusion Therapy	C	C	C	C	C	C	C	C
Hospice	C	C	C	C	C	C	C	C
Fertility - Services to diagnose fertility	C	C		C	C	C	C	C
Fertility - Services to treat cause of infertility	C	n/c	n/c	C	C	C		C
Fertility - Preimplant genetic diagnosis testing	C							
Nutritional Counseling - Preventive	C	C	C	C	C	C	C	C
Nutritional Counseling - Diabetes	C	C	n/c	C	C	C	C	C
Nutritional Counseling - Gestational Diabetes	C	C						C
Oral Surgery for Cleft Lip/Palate	C	C	C	C	C	C		n/c
Orthodontia - Child	C	C	C	C	C	C	C	C
Orthognathic Surgery (correcting deformities of the jaw)	C	n/c	C	C		C	n/c	n/c
Outpatient Infusion Therapy	C	C	C	C	C	C	C	C
Outpatient Surgery	C	C	C	C	C	C	C	C
Preventive dental services (exams, cleaning) - Child	C	C	C	C	C	C	C	C
Primary Care Visit to Treat an Injury or Illness	C	C	C	C	C	C	C	C
Private Duty Nursing	C	n/c	C	C	n/c	C	n/c	C
Radiation Therapy	C	C	C	C	C	C	C	C
Reconstructive Surgery (non-cosmetic)	C	C	C	C	C	C	C	C
Renal Dialysis	C	C	C	C	C	C	C	C
Specialist Visit	C	C	C	C	C	C	C	C
Second opinion (surgery)	C		C	C	C		C	C
Sterilization - Voluntary - Men	C	C			C	C	C	
Sterilization - Voluntary - Women	C				C	C	C	
Treatment of Temporomandibular Joint	C	C	n/c	C	C	C	C	C
Urgent Care Services	C	C	C	C	C	C	C	C

II Emergency Services

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Ambulance – Air	C	C	C	C	C	C	C	C
Ambulance – Ground	C	C	C	C	C	C	C	C
Facility Charges	C	C	C	C	C	C	C	C
Physician Charges	C	C	C	C	C	C	C	C

III Hospitalization

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Inpatient Hospital (includes anesthesia, bed, board, general nursing, diagnostic services and surgery)	C	C	C	C	C	C	C	C
Inpatient Medical	C	C	C	C	C	C	C	C
Organ Transplants - Surgery	C	C	C	C	C	C	C	C
Organ Transplants - Delivery of donor organ	C	C	C		C	C	C	C
Organ Transplants - Removal of donor organ	C	C	C	C	C	C	C	C
Organ Transplants - Transportation of recipient	C	C	C		C	C	C	C
Organ Transplants - Lodging	C	C	C		C	C	C	C
Reconstructive Breast Surgery	C	C	C	C	C	C	C	C
Skilled Nursing	C	C	C	C	C	C	C	C

IV Pregnancy, Maternity, and Newborn Care

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Circumcision	C							C
Complications of pregnancy	C			C	C	C	C	C
Contraceptives - Implanted	C	C			C		C	C
Contraceptives - Injectable	C	C		C	C	C	C	C
Contraceptives - Oral	C	C	C	C	C	C	C	C
Delivery	C	C	C	C	C	C	C	C
Delivery by Mid-wife in home	C		C		C			C
Medically necessary abortion	C	C	C	C	C	C	C	C
Newborn Child Coverage	C	C	C	C	C	C	C	C
Normal pregnancy, newborn nursery & care	C	C	C	C	C	C	C	C
Post-delivery (mothers & newborn)	C	C	C	C	C	C	C	C
Post-Partum Care	C	C	C	C	C	C	C	C
Prenatal Care	C	C	C	C	C	C	C	C

V Mental Health & Substance Use Disorder Services including Behavioral Health Treatment

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Applied Behavior Analysis	C*	C	C	C		n/c		C
Autism Services - Habilitative Therapies	C*	C	C	C	C		C	C
Autism Services - Rehabilitative Therapies	C*		C	C	C		C	C
Detoxification	C	C	C	C	C	C		C
Group psychotherapy	C			C	C	C		C
Inpatient Mental Health	C	C	C	C	C	C	C	C
Inpatient Substance Use Disorder	C	C	C	C	C	C	C	C
Outpatient Mental Health	C	C	C	C	C	C	C	C
Outpatient Substance Use Disorder	C	C	C	C	C	C	C	C
Partial Day Hospitalization	C	C	C	C	C	C	C	C
Psychiatric services	C		C	C	C			C
Psychological Testing	C		C	C	C	C		C
Residential Treatment	C	C	n/c	C	C	C	C	n/c

*Required as explained in Administrative Letter [2022-02](#)²⁰

VI Prescription Drug

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Generic Drugs	C	C	C	C	C	C	C	C
Medical Foods	C	C	C	C	C	n/c		
Non-Preferred Brand Drugs	C	C	C	C	C	C	C	C
Off Label Drugs	C							
Preferred Brand Drugs	C	C	C	C	C	C	C	C
Smoking/Tobacco Cessation Drugs	C	C	C	C	C	C	C	C
Specialty Drugs	C	C	C	C	C	C	C	

²⁰ https://scc.virginia.gov/getattachment/6b226085-e530-4a13-bfa6-df2a80f71733/AL_22-02.pdf
Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions

VII Rehabilitative and Habilitative Services and Devices

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Breast Prosthesis	C		C	C	C	C	C	C
Cardiac Rehabilitation	C	C	C	C	C	C	C	C
Cochlear implants	C	C		C	C			
Diabetes (blood glucose monitors, testing, etc.)	C	C	C	C	C	C	C	C
Medical Equipment & Supplies	C	C	C	C	C	C	C	C
Medically Necessary Prosthetics	C	C	C	C	C	C	C	C
Occupational Therapy (surgery, injury, illness)	C	C	C	C	C	C	C	C
Ostomy Supplies	C			C		C		
Outpatient Physical Therapy	C	C	C	C	C	C	C	C
Oxygen	C			C		C		C
Pulmonary Rehabilitation	C	C		C	C	C	C	C
Rehab/Habilitation for disability from medical condition	C	C	C	C	C	C	C	C
Replacement or repair of DME	C	C	C	C	C	C	C	
Respiratory Therapy Services	C		C			C	C	C
Speech Therapy (surgery, injury, or illness)	C	C	C	C	C	C	C	C
Speech Therapy to correct speech impediments	C		C	C	C	n/c		C
Wigs & Scalp Prosthetics for chemo	C	C	C	C	n/c	n/c	n/c	n/c

VIII Laboratory Services

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Diagnostic (Lab, X-ray, Imaging, etc.)	C	C	C	C	C	C	C	C
Genetic Testing	C	C		C	n/c	n/c	C	

IX Preventive and Wellness Services and Chronic Disease Management

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Colorectal Cancer Screening	C	C	C	C	C	C	C	C
Diabetic Education	C	C	n/c	C	C	C	C	C
Mammography	C	C	C	C	C	C	C	C
Preventive Care for Women	C	C	C	C	C	C	C	C
Minimum one well-woman preventive visit (gynecological exam) annually	C	C	C	C	C	C	C	C
Screening for gestational diabetes between 24 and 28 wks	C							C
Screening for gestational diabetes at 1st prenatal visit at high risk for diabetes	C							
HPV testing > 29 y/o every 3 years if normal pap	C	C			C	C	C	C
Annual counseling on sexually transmitted infections for all sexually active women	C							
Annual screening for HIV for sexually active women	C	C						
Contraceptive methods and counseling	C	C	C	C	C	C	C	C
Lactation support and counseling by a trained provider	C	C			C	n/c	C	C
Rental of Lactation Equipment	C	n/c		C	C	C	C	
Screening & counseling for interpersonal and domestic violence	C							
Preventive Health Mandated by ACA (immunizations, well child and adult care)	C	C	C	C	C	C	C	C
Prostate Specific Antigen (PSA)	C	C	C		C	C		C
Smoking/Tobacco Cessation Services	C	C	C	n/c	C	C	C	C

X Pediatric Services, Including Oral and Vision Care

Benefit Subcategories	VA	DC	DE	KY	MD	NC	TN	WV
Basic dental services (fillings, periodontal disease, etc.)	C	C	C	C	C	C	C	C
Dental anesthesia and hospitalization for dental care to children under age 5, children who are severely disabled or children who have a medical condition that requires hospitalization or general anesthesia.	C	C	C	C	C	C	C	C
Dental Services Related to Accidental Injury	C	C	C	C	C	C	C	C
Dilated eye exam for diabetes related diagnosis	C	C	C	C	C			C
Eyeglasses or contact lenses (Adult Vision cannot be EHB)	C	C	C	C	C	C	C	C
Pediatric Oral Services	C	C	C	C	C	C	C	C
Pediatric Vision Care	C	C	C	C	C	C	C	C
Preventive dental services (exams, cleaning)	C	C	C	C	C	C	C	C
Routine Eye Exams (Adult Vision cannot be EHB)	C	C	C	C	C	C	C	C



NovaRest
ACTUARIAL CONSULTING

Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan and Potential Cost Impacts

October 2022

Prepared by:

Amanda Rocha

Annette James, FSA, MAAA

Donna Novak, FCA, ASA, MAAA, MBA

Keith A Epperson, ASA, MAAA

Richard Cadwell, ASA, MAAA



Table of Contents

Executive Summary	3
ACA Benefit Rules	4
The ACA ten required benefit categories	4
Excluded benefits that cannot be an EHB.....	5
Current CMS rules for changing the state EHB.....	6
Rules for the revised EHB	6
Non-Discrimination Rules	7
Benefit Difference Between the Current EHB BP and the Richest Plan.....	7
Identification of Richest Plan.....	7
Covered Benefits in EHB BP not Included in Richest Plan	8
Available Premium Dollars for Additional EHB Benefits	8
Plan Values	8
Benefit comparison grid for benefits from richest plan and current EHB	8
Value of potential additional benefits	9
Potential Additional EHBs for 2025 EHB BP	9
Oral Enteral Formula	10
Donor Breast Milk	10
Enhanced Prosthetics	11
Hearing Aids	13
Limitations.....	14
Reliance and Qualifications	14
Appendix A – Benefit Comparison Between the Current EHB BP and the Richest Plan Considered (FEHBP).....	15
Appendix B - State and Federal Regulations	22
Appendix C – Virginia EHB Selection History	25

Executive Summary

The Commonwealth of Virginia is interested in reviewing its Essential Health Benefits Benchmark Plan (EHB BP). To facilitate this review, the Virginia Bureau of Insurance (BOI) has directed its contracted actuarial firm, NovaRest, to assist in analyzing potential changes to the current Virginia EHB BP. This study has been conducted utilizing federal grant funding under the State Flexibility to Stabilize the Market Cycle II Grant Program (Funding Opportunity PR-PRP-21-001). The study is intended to enhance and support the role of Virginia implementing and planning for federal market reforms and consumer protections under Section 2702 (Guarantee Availability of Coverage), Section 2703 (Guarantee Renewability of Coverage) and Section 2707 (Nondiscrimination under Comprehensive Health Insurance Coverage-Essential Health Benefits Package) of Part A of Title XXVII of the Public Health Service Act. State funding has not been utilized to conduct this study.

The Virginia EHB BP is a set of benefits required to be offered by all individual and small group Affordable Care Act (ACA) plans in the Commonwealth of Virginia. Changing the EHB BP would change the required ACA benefits to be offered in the individual and small group ACA plans in Virginia. Approximately 6% of Virginians (approximately 560,000 individuals) would be impacted by EHB BP changes.¹

Current US Department of Health and Human Services (HHS) rules² concerning state selection of a new EHB BP contain 2 important requirements, which state that the new EHB BP must:

- Provide a scope of benefits that is equal to, or greater than, the coverage within each Essential Health Benefit (EHB) category, of the benefits provided under a typical employer plan, and
- Not exceed the generosity of the most generous among the plans considered when selecting the current EHB BP. This set of comparison plans for purposes of the generosity standard includes the state's new EHB BP adopted for the 2017 plan year and any of the state's options considered for the 2017 plan year.

The most generous plan considered when selecting the EHB BP effective in 2017 was the Federal Employees Health Benefit Plan (FEHBP).

We have determined that the difference between the most generous plan (FEHBP) and the current EHB BP is \$2.56 Per Member Per Month (PMPM).³ Therefore, the value of any additional benefits to the EHB BP cannot exceed \$2.56 PMPM.

¹ PY 2023 Unified Rate Review Template current enrollment compared to 2021 Vintage Population estimates for Virginia.

² 45 CFR 156.111

³ This does NOT include routine adult dental services or gender reassignment surgery. While covered under the FEHBP Plan and specifically excluded by the EHB BP, our interpretation of the federal rules indicate they cannot be considered as a difference in value. Similarly, we did not consider elective abortion which is included in the EHB BP but cannot be an EHB.

The benefits that are highlighted in this analysis for Virginia to potentially add to the EHB BP and their estimated values, based primarily on prior Virginia cost analyses, are:

Alternative EHBs for Consideration in the Benchmark plan		
	PMPM Estimate	% of Premium
Oral Enteral Formula	\$0.11	0.02%
Donor Breast Milk	\$0.07	0.01%
Enhanced Prosthetics	\$0.18	0.03%
Hearing Aids	\$0.54	0.09%
Total estimated impact to premium	\$0.87	0.15%

The Virginia General Assembly may determine which of these benefits, if any, to add to the current EHB BP. If benefits are added, an application for the new EHB BP for HHS as well as a public comment period will be required prior to May, 2023, for 2025 implementation.

ACA Benefit Rules

The ACA ten required benefit categories

The Affordable Care Act requires non-grandfathered health plans in the individual and small group markets to cover EHBs, which include items and services in the following ten benefit categories:⁴

- (1) ambulatory patient services;
- (2) emergency services;
- (3) hospitalization;
- (4) maternity and newborn care;
- (5) mental health and substance use disorder services including behavioral health treatment;
- (6) prescription drugs;
- (7) rehabilitative and habilitative services and devices;
- (8) laboratory services;
- (9) preventive and wellness services and chronic disease management; and
- (10) pediatric services, including oral and vision care.

⁴ Described in section 1302(b)(1) of the ACA

The ACA required cost sharing and maximum benefit rules

In adopting the EHB Benchmark approach, the EHB package contained in the EHB BP defines the benefits and services that must be covered. In general, the EHB BP does not define how specific cost-sharing requirements will be applied by health plans. The EHB package is not intended to define allowed cost sharing, some of which is mandated in other provisions of the Act. Instead, the actuarial value⁵ requirement for each metal level⁶ will shape how companies design their cost-sharing requirements.

The ACA does include some cost-sharing rules. For example, the ACA does not currently allow cost sharing on preventive services like vaccinations and screening tests.

HHS announced the maximum annual limitations on total cost sharing for the 2023 benefit year for non-grandfathered group health plans under the Affordable Care Act (ACA). The cost-sharing limits for the 2023 benefit year will be \$9,100 for self-only coverage and \$18,200 for other than self-only coverage, up from \$8,700 and \$17,400, respectively, for the 2022 benefit year. In general, cost sharing includes deductibles, coinsurance, copayments, and any other required expenditure that is a qualified medical expense with respect to EHBs covered under the plan.

Note that under the Act, plans may not establish lifetime or annual limits on the dollar value of an EHB. Any such limits contained in the existing EHB BP will not apply in the future. Limits can be made on the number of services.

Excluded benefits that cannot be an EHB

Pursuant to 45 CFR 156.115, the following benefits are excluded from being EHBs even though a new EHB BP may cover them:

- Routine non-pediatric dental services,
- Routine non-pediatric eye exam services,
- Long-term/custodial nursing home care benefits, and
- Non-medically necessary orthodontia.

Additionally, section 156.115(c) provides that no health plan is required to cover abortion services as part of the requirement to cover EHBs.

⁵ The actuarial value is the percent of health care expenses paid by the issuer

⁶ The ACA defines four metal levels and a catastrophic plan based on actuarial values

Current CMS rules for changing the state EHB

Rules for the revised EHB

Under 45 CFR 156.111 in the Notice of Benefit and Payment Parameters for 2019 Final Rule (2019 Payment Notice) finalized on April 9, 2018, CMS established that states may select a new EHB BP for plan years beginning on or after January 1, 2020. The Final 2019 Notice of Benefits and Payment Parameters provides states with greater flexibility by establishing standards for states to update their EHB BPs. CMS is providing states with three (3) new options for selection starting in plan year 2020, which are:

- Option 1: Selecting the EHB BP that another state used for the 2017 plan year.
- Option 2: Replacing one or more categories of EHBs under its EHB BP used for the 2017 plan year with the same category or categories of EHB from the EHB BP that another state used for the 2017 plan year.
- Option 3: Otherwise selecting a set of benefits that would become the state's new EHB BP.

If a state opts to select a new EHB BP utilizing any of the selection options, the state is required⁷ to submit an actuarial certification and associated actuarial report from an actuary, who is a member of the American Academy of Actuaries, in accordance with generally accepted actuarial principles and methodologies.

This actuarial certification and associated actuarial report must affirm that the state's revised EHB BP:

- Provides a scope of benefits that is equal to, or greater than, to the extent any supplementation is required to provide coverage within each EHB category⁸ the scope of benefits provided under a typical employer plan⁹ and
- Does not exceed the generosity of the most generous among the comparison plans¹⁰ considered. This set of comparison plans for purposes of the generosity standard includes the state's chosen EHB BP used for the 2017 plan year, and any of the state's base EHB Benchmark small-group plan options used for the 2017 plan year.¹¹

⁷ Requirements stated under 45 CFR 156.111(e)(2)(i) and (ii)

⁸ 45 CFR 156.110(a) defines the EHB categories

⁹ 45 CFR 156.111(b)(2)(i), defines a typical employer plan

¹⁰ 45 CFR 156.111(b)(2)(ii)(A) and (B) defines the comparison plan

¹¹ These are described in 45 CFR 156.100(a)(1), supplemented as necessary under 45 CFR 156.110

Non-Discrimination Rules

Any revised EHB BP will have to follow the non-discrimination rules¹².

Nondiscrimination based on sexual orientation and gender identity

HHS explicitly prohibits discrimination, by QHP issuers with respect to QHPs, based on sexual orientation and gender identity. HHS is expected to address this policy and respond to comments in future rulemaking, specifically section 1557 rulemaking which is expected to address issues related to prohibited discrimination based on sex.

Refine EHB nondiscrimination policy for health plan designs

An issuer does not provide EHB if its benefit design, or the implementation of its benefit design, discriminates based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions; and that a non-discriminatory benefit design that provides EHB is one that is clinically based. HHS provided examples of presumptively discriminatory benefit designs.

Benefit Difference Between the Current EHB BP and the Richest Plan

To meet the requirement that the new EHB BP does not exceed the generosity of the most generous among the plans considered in 2015, we determined the values of the most generous plan and the current EHB. The total value of any additional EHBs cannot exceed the difference between the most generous plan and the Current EHB BP. We determined that the difference between the most generous plan considered in 2015 and the current EHB BP is \$2.56 or 0.44% of premium.¹³

Identification of Richest Plan

Based on prior work done in Virginia to select the current state EHB BP,¹⁴ we believe the Federal Employee Health Benefits Plan (FEHBP) Blue Cross and Blue Shield Service Benefit Plan remains the highest actuarial value plan among the 10 plans considered. In order to assess the impact to premium of potential new EHBs, we identified benefits included in the FEHBP that are not in the EHB BP that would need to be adjusted out to have comparable sets of benefits.

¹² <https://www.federalregister.gov/documents/2022/08/04/2022-16217/nondiscrimination-in-health-programs-and-activities>

¹³ This does NOT include routine adult dental services and gender reassignment surgery. While covered under the FEHBP Plan and specifically excluded by the EHB BP, our interpretation of the federal rules indicate they cannot be considered as a difference in value.

¹⁴ The report showing prior work and the resulting Benchmark Plan is included as a separate attachment to this report.

To develop claim estimates and percent of premium, each benefit was analyzed using either prior studies of mandated benefits or EHBs in other states, or we built cost estimates from first principles (using the basic assumption of cost per service and number of services per 1,000). The estimated impact of these benefit adjustments is as follows:

- 0.80% of premium
- \$4.61 Premium impact

The richest plan premium impact excludes routine adult dental services, which cannot be an EHB, and gender reassignment surgery which may be a required benefit due to new CMS discrimination guidance.

Covered Benefits in EHB BP not Included in Richest Plan

In order to assess the impact to premium of potential new EHBs, we identified benefits included in the EHB BP that are not in the FEHBP (richest) that would need to be adjusted out to have comparable sets of benefits.

To develop claim estimates and percent of premium, each benefit was analyzed using either prior studies of mandated benefits or EHBs in other states, or we built cost estimates from first principles (using the basic assumption of cost per service and number of services per 1,000). The estimated benefit adjustments are as follows:

- 0.35% of premium
- \$2.05 premium impact

Available Premium Dollars for Additional EHB Benefits

When we consider the total value to the benefits in the FEHBP and not in the current EHB BP, we see that there is approximately \$4.61 more benefit in the FEHBP. Then we must consider the benefits in the EHB BP that are not in the FEHBP of \$2.05. The difference shows that the value of the FEHBP is \$2.56 more PMPM than the current EHB BP.

Plan Values

Benefit comparison grid for benefits from richest plan and current EHB

Appendix A – Benefit Comparison Between the Current EHB BP and the richest plan considered (FEHBP), compares the current EHB BP benefits to the richest plan benefits.

Value of potential additional benefits

Alternative EHBs for Consideration in the Benchmark plan		
	PMPM Estimate	% of Premium
Oral Enteral Formula	\$0.11	0.02%
Donor Breast Milk	\$0.07	0.01%
Enhanced Prosthetics	\$0.18	0.03%
Hearing Aids	\$0.54	0.09%
Total estimated impact to premium	\$0.87	0.15%

Potential Additional EHBs for 2025 EHB BP

The potential additions to the EHB BP were provided by the BOI based upon recent recommendations by the Virginia Health Insurance Reform Commission. We performed an analysis of surrounding jurisdictions in the NovaRest accompanying report, “Review and Evaluation of Potential Changes to the Virginia Essential Health Benefits Benchmark Plan Comparison to Neighboring Jurisdictions,” to determine if the Virginia EHB BP was an outlier in providing benefits that are not commonly covered in surrounding jurisdictions, or if other jurisdictions provided benefits not covered by the Virginia EHB BP. Based on the results of both reports, Virginia may elect to consider other benefit changes.

For estimates of potential additional EHBs, we primarily relied on prior analysis performed by Virginia. We also priced the value of the difference between the Virginia EHB BP and the most generous of the benchmark plan options considered. Where adjustments were necessary or where Virginia analysis was not available, we relied on public information, interviews with medical providers, plan year 2023 VA carrier rate filing information, and 2021 VA carrier financials. We did not have access to actual carrier claims data. For demographic information, we used information from the US Census Bureau, including Vintage Population Estimates and the American Community Survey. We assume a 5.5% annual cost medical trend¹⁵ and 75% carrier cost sharing¹⁶. For dental services, we assume a 2.5% trend, as dental trend estimates are lower than medical trends.¹⁷

We note our estimates do not vary significantly between the individual and small group markets as the membership and the current premiums in the markets are within 2% of each other. Please note that since our estimates represent a market average, the impact to each carrier will vary based on numerous factors, such as coverage level, population, and covered benefits.

¹⁵ Projected Private Health Insurance Spending Per Enrollee 2021. National Health Care Expenditures: Table 17 Health Insurance Enrollment and Enrollment Growth Rates. <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected>

¹⁶ 2021 incurred to allowed from combined VA carriers plan year 2023 rate filing URRTs was 82%.

¹⁷ <https://www.segalco.com/consulting-insights/2022-health-plan-cost-trend-survey>

Oral Enteral Formula

1. Description of proposed benefit

Medically necessary formula and enteral nutrition products for persons with inherited metabolic disorder. The formula or enteral nutrition product does not need to be the primary source of nutrition but must be a critical source of nutrition.

2. Comparison of proposed benefit to the current benefit coverage

An enteral benefit by infusion as the primary source of nutrition is covered by the current benchmark plan. "Your Plan covers special medical formulas which are the primary source of nutrition for covered persons with inborn errors of amino acid or organic acid metabolism, metabolic abnormality or severe protein or soy allergies. These formulas must be prescribed by a physician and required to maintain adequate nutritional status."

The proposed coverage would expand the benefit to medically necessary formula and enteral nutrition products that are a critical source, but not a primary source of nutrition for persons with inherited metabolic disorder.

3. Demand for benefit – extent and how many impacted

A survey performed for the 2019 session shows a claim denial rate of 15% on over 9,000 claims.¹⁸

4. Cost estimate for proposed benefit

a. Methodology

The 2018 total annual claims divided by covered lives provided by the Virginia BOI provides a \$0.66 PMPM cost. We use the 15% claims denial rate to represent the claims where the oral nutrition is critical but not a primary source of nutrition. Additionally, we believe the 2018 annual claims were the allowed claims cost, so we trended this amount forward, applied the expected paid-to-allowed claims ratio and loss ratio to produce our estimated cost.

b. Cost

\$0.11 PMPM or 0.02% of premium.

Donor Breast Milk

1. Description of proposed benefit

Mandate coverage of donated breast milk, to include human milk fortifiers, under certain specific conditions and through a VA licensed human breast milk bank.

¹⁸ Step Two Assessment House Bill 2177 provided by the Virginia BOI.

2. Comparison of proposed benefit to the current benefit coverage

Donor breast milk is not currently excluded in the EHB BP documents; however, it does not appear to be commonly covered in the individual or small group ACA market.

3. Demand for benefit – extent and how many impacted

It is recommended infants be exclusively breastfed for the first 6 months with continued breastfeeding with complementary foods for 1 year or longer.¹⁹ Currently, approximately 16.8% of infants are not breastfed, and 44.2% of infants are not breastfed at 6 months. Considering the live births in Virginia,²⁰ this represents about 16,000 infants who never receive any breast milk and 42,000 infants who do not receive breast milk for the minimum recommended first 6 months of life.

4. Cost estimate for proposed benefit

a. Methodology

We relied on the cost provided in a presentation by the Virginia BOI.

b. Cost

This represents \$0.07 PMPM or 0.01% of premiums.

Enhanced Prosthetics

1. Description of proposed benefit

Adding the definition of “medically necessary prosthetic device” to include any myoelectric, biomechanical, or microprocessor-controlled prosthetic device that peer-reviewed medical literature has determined to be medically appropriate on the basis of the clinical assessment of the enrollee's rehabilitation potential.

2. Comparison of proposed benefit to the current benefit coverage

Currently, the EHB BP includes “benefits for prosthetics and components when they are Medically Necessary for activities of daily living. A prosthetic device is an artificial substitute to replace, in whole or in part, a limb or body part, such as an arm, leg, foot or eye. Coverage is also included for the repair, fitting, adjustments, and replacement of a prosthetic device. In addition, components for artificial limbs are covered. Components are the materials and equipment needed to ensure the comfort and functioning of the prosthetic device.”

¹⁹ <https://www.cdc.gov/breastfeeding/data/facts.html>

²⁰ https://apps.vdh.virginia.gov/HealthStats/documents/pdf/birth_1-1_2020.pdf

Medical necessity is determined by an individual’s functional ability when using the device. To be considered Medically Necessary, a service must:²¹

- be required to identify or treat an illness, injury, or pregnancy-related condition;
- be consistent with the symptoms or diagnosis and treatment of your condition
- be in accordance with standards of generally accepted medical practice; and
- be the most suitable supply or level of service that can safely treat the condition and not be for the convenience of the patient, patient’s family, or the provider.

Myoelectric, biomechanical, or microprocessor controlled prosthetic devices may not be considered medically necessary as they may be considered a convenience to a patient and would not be covered.

3. Demand for benefit – extent and how many impacted

There are about 2 million people living with limb loss in the United States, with approximately 185,000 amputations occurring each year.²² Adjusting to Virginia’s population, this is approximately 52,000 people with limb loss, and almost 5,000 amputations per year.

Joint Legislative Audit and Review Commission (JLARC) research showed that <2% of prosthetic-related billing was for electric prosthetics.²³

4. Cost estimate for proposed benefit

a. Methodology

We relied on previous analysis performed in Virginia, which we trended forward. Carriers in the individual market reported a cost of \$0.12 PMPM (\$0.16 PMPM with administrative costs) with a similar cost in the small group market.²⁴ We note the previous analysis (and this price estimate) performed in Virginia was for any myoelectric, biomechanical, or microprocessor-controlled prosthetic device that has a Medicare code. The updated definition above reflects medical necessity based on rehabilitation potential. While we believe the updated definition is more restrictive than the previous definition, we do not believe medical professionals would prescribe prosthetics that are not medically appropriate. Therefore, we made no further adjustments to the cost estimate for the updated definition.

²¹ <https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/Updated-Virginia-Benchmark-Summary.pdf>.

²² Administration, Web. “Limb Loss Statistics.” Amputee Coalition, 1 Aug. 2017, <https://www.amputee-coalition.org/resources/limb-loss-statistics/>.

²³ “Health Insurance Mandates Step Two Assessment.” Presentation by Virginia Bureau of Insurance Health Insurance Reform Commission December 6, 2021

²⁴ “Health Insurance Mandates Step Two Assessment.” Presentation by Virginia Bureau of Insurance Health Insurance Reform Commission December 6, 2021

b. Cost

This represents \$0.18 PMPM or 0.03% of premium.

Hearing Aids

1. Description of proposed benefit

One medically necessary hearing aid and related hearing aid services covered every two years, when medically necessary.

2. Comparison of proposed benefit to the current benefit coverage

Hearing aids are currently not covered by the EHB BP.

3. Demand for benefit – extent and how many impacted

According to a CDC report from 2014 to 2016, 14% of Virginians aged 18 and over suffered some level of hearing loss.²⁵ This increases with age, with 33% of those over 60 experiencing hearing loss and 50% of those over 85 experiencing hearing loss.²⁶ Further, the CDC cites 14.9% of children aged 6-19 experienced some level of Low- or High-frequency loss of at least 16-decibels in one or both ears.²⁷ Men are nearly twice as likely as women to have hearing loss.²⁸ We estimate almost 800,000 people in Virginia under the age of 65 are experiencing some form of hearing loss. We expect those over 65 would receive coverage under Medicare and 61,000 Virginians with hearing loss to receive some treatment under the proposed coverage.

4. Cost estimate for proposed benefit

a. Methodology

We relied on a report from the Joint Legislative Audit and Review Commission (JLARC) (2020 RD #544), which estimated 0.004% - 0.015%. The report was a review of Senate Bill 423 (2020), which mandated health insurance coverage of up to \$1,500 per hearing impaired ear for hearing aids and related services every two years.²⁹

The proposed benefit expands the benefit to all ages and also removes the dollar limit, which would not be permitted for the EHB BP. The cost also includes the hearing test to determine medical necessity and the fitting/molding of the device.

b. Cost

We estimate the cost to be \$0.51 PMPM or 0.09% of premium.

²⁵ https://www.cdc.gov/nchs/data/health_policy/hearing_loss_table_SEs.pdf

²⁶ <https://www.cdc.gov/healthliteracy/developmaterials/audiences/olderadults/understanding-challenges.html#:~:text=Hearing%20loss%20affects%20one%20out.of%20those%20older%20than%2085.>

²⁷ <https://www.cdc.gov/ncbddd/hearingloss/data.html>

²⁸ <https://www.nidcd.nih.gov/health/statistics/quick-statistics-hearing>

²⁹ <http://jlarc.virginia.gov/pdfs/reports/Rpt543.pdf>



Limitations

NovaRest has prepared this report in conformity with its intended use by persons technically competent to evaluate our estimate of the proposed benefits. Any judgments as to the data contained in the report or conclusions about the ramifications of that data should be made only after reviewing the report in its entirety, as the conclusions reached by review of a section or sections on an isolated basis may be incorrect. Appropriate staff is available to explain and/or clarify any matter presented herein. It is assumed that any user of this report will seek such explanations as to any matter in question.

NovaRest has developed projections in conformity with what we believe to be the current and proposed operating environments and are based on best estimates of future experience within such environments. It should be recognized that actual future results may vary from those projected in this report. Factors that may cause the actual results to vary from the projected include new insurance regulations,; differences in implementation of the required coverage by carrier; accounting practices; changes in federal and/or local taxation; and external economic factors, such as inflation rates, investment yields and ratings and inherent potential for normal random fluctuations in experience.

Reliance and Qualifications

We are providing this report to you solely to communicate our findings and analysis of the proposed benefit changes. The reliance of parties other than the Virginia BOI on any aspect of our work is not authorized by us and is done at their own risk.

To arrive at our estimate, we made use of public information, prior work done by/for Virginia, the carrier's statutory financials, and the carriers' rate filing information. We also made assumptions based on information gained from interviews with medical professionals and interested parties. We did not perform an independent investigation or verification. If this information was in any way inaccurate, incomplete, or out of date, the findings and conclusions in this report may require revision. While we have relied on information without independent investigation or verification, the medical professionals we spoke to are fully qualified and knowledgeable in their field.

This memorandum has been prepared in conformity with the applicable Actuarial Standards of Practice. We have no conflicts of interest in performing this review and providing this report.

We are members of the American Academy of Actuaries and meet that body's Qualification Standards to render this opinion. We meet the Qualification Standards promulgated by these professional organizations to perform the analyses and opine upon the results presented in this Actuarial Report.

Appendix A – Benefit Comparison Between the Current EHB BP and the Richest Plan Considered (FEHBP)

A **c** indicates that the benefit is covered, and **n/c** indicates that it is not covered. Please note this analysis is done specifically on the EHB BP and FEHBP Plan documents. We did not survey carriers to determine coverage or consider United States Preventive Task Force Recommendations, which may affect coverage.

Items **highlighted** are the benefits identified in this report as potential options to be added to the EHB BP.

I Ambulatory Patient Services

Benefit Subcategories	EHB BP	FEHBP
Acupressure	n/c*	n/c
Acupuncture	n/c	c
Allergy Services	c	c
Basic dental services (fillings, periodontal disease, etc.) - Child	c	c
Biofeedback	n/c	n/c
Chemotherapy	c	c
Chiropractor Services	c	c
Cosmetic Surgery	n/c	n/c
Craniomandibular Disorders	c	c
Dental Services Related to Accident	c	c
Diagnostic Services	c	c
Enteral Formula by Infusion	c	c
Eyeglasses or contact lenses following a cataract surgery	covered	c
Fertility - Artificial insemination	n/c	n/c
Fertility - Donor eggs, sperm	n/c	n/c
Fertility - In vitro fertilization	n/c	n/c
Fertility - Services to diagnose fertility	c	c
Fertility - Services to treat cause of infertility	c	c
Fertility - Preimplant genetic diagnosis testing	c	c
Hearing Exams for Hearing Aid Fitting	n/c	c
Home Health Care	c	c
Home Infusion Therapy	c	c
Hospice	c	c
Nutritional Counseling - Anorexia	c	c
Nutritional Counseling - Bulimia	c	c
Nutritional Counseling - Chronic Renal Failure	c	c
Nutritional Counseling - Diabetes	c	c
Nutritional Counseling - Gestational Diabetes	c	c
Nutritional Counseling - Hyperlipidemia	c	c
Nutritional Counseling - Hypertension	c	c
Nutritional Counseling - Obesity	c	c
Nutritional Counseling - Phenylketonuria (PKU)	c	c
Nutritional Supplements (not to sustain life)	n/c	n/c

Benefit Subcategories	EHB BP	FEHBP
Oral Enteral Formula	n/c	n/c
Oral Surgery – removal of impacted teeth	n/c	C
Oral Surgery for Cleft Lip/Palate	C	C
Orthognathic Surgery (correcting deformities of the jaw)	C	C
Outpatient Infusion Therapy	C	C
Outpatient Surgery	C	C
Preventive dental services (exams, cleaning) - Child	C	C
Primary Care Visit to Treat an Injury or Illness	C	C
Private Duty Nursing	C	n/c
Radiation Therapy	C	C
Reconstructive Surgery (non-cosmetic)	C	C
Renal Dialysis	C	C
Routine Foot Care	n/c	n/c
Second opinion (surgery)	C	C
Specialist Visit	C	C
Sterilization - Voluntary - Men	C	C
Sterilization - Voluntary - Reversal of Sterilization	n/c	n/c
Sterilization - Voluntary - Women	C	C
Surrogacy	n/c	n/c
Treatment of Temporomandibular Joint	C	C
Urgent Care Services	C	C
Weight Loss Programs	n/c	n/c

* Acupressure is not explicitly excluded, but not discussed in EHB BP documents and is not typically considered medically necessary. We assume it is not covered.

II Emergency Services

Benefit Subcategories	EHB BP	FEHBP
Ambulance – Air	C	C
Ambulance – Ground	C	C
Facility Charges	C	C
Physician Charges	C	C

III Hospitalization

Benefit Subcategories	EHB BP	FEHBP
Bariatric/Obesity Surgery	n/c	C
Inpatient Hospital (includes anesthesia, bed, board, general nursing, diagnostic services and surgery)	C	C
Inpatient Medical	C	C
Medical services related to intoxication	C*	C
Medical services related to suicide	C*	C
Organ Transplants - Surgery	C	C
Organ Transplants - Delivery of donor organ	C	C
Organ Transplants - Removal of donor organ	C	C
Organ Transplants - Transportation of recipient	C	n/c
Organ Transplants - Lodging	C	n/c
Reconstructive Breast Surgery	C	C
Skilled Nursing	C	C

* The benefits are not discussed in the EHB BP documents, but the VA BOI indicated they would not allow these to be an exclusion under the EHB.

IV Pregnancy, Maternity, and Newborn Care

Benefit Subcategories	EHB BP	FEHBP
Birthing Centers	C*	C
Circumcision	C	C
Complications of Pregnancy	C	C
Contraceptives - Implanted	C	C
Contraceptives - Injectable	C	C
Contraceptives - Oral	C	C
Delivery	C	C
Delivery by Mid-wife in home	C	C
Donor Breast Milk	n/c	n/c
Medically necessary abortion	C	C
Neonatal Intensive Care	C**	C
Newborn Child Coverage	C	C
Normal pregnancy, newborn nursery & care	C	C
Post-Delivery (mothers & newborn)	C	C
Post-Partum Care	C	C
Prenatal Care	C	C

* The benefit is not discussed in the EHB BP documents, but it covers "Professional and Facility services for childbirth including use of the delivery room and care for normal deliveries, in a Facility or the home including the services of an appropriately licensed nurse midwife". We assume birthing centers are covered.

** The benefit is not discussed in the EHB BP documents, but we assume it is covered as a medically necessary service related to Pregnancy, Maternity, and Newborn Care.

V Mental Health & Substance Use Disorder Services including Behavioral Health Treatment

Benefit Subcategories	EHB BP	FEHBP
Applied Behavior Analysis	C*	C
Autism Services - Habilitative Therapies	C*	C
Autism Services - Rehabilitative Therapies	C*	C
Detoxification	C	C
Group Psychotherapy	C	C
Inpatient Mental Health	C	C
Inpatient Substance Use Disorder	C	C
Outpatient Mental Health	C	C
Outpatient Substance Use Disorder	C	C
Learning Disorders/Behavioral Issues	C**	n/c
Partial Day Hospitalization	C	C
Psychiatric Services	C	C
Psychological Testing	C	C
Residential Treatment	C	C
Supervised Living	C	C

*Required as explained in Administrative Letter [2022-02](#)³⁰

** The benefit is not discussed in the EHB BP documents, but we assume it is covered as a medically necessary service related to mental health & substance use as well as habilitative services.

VI Prescription Drug

Benefit Subcategories	EHB BP	FEHBP
Generic Drugs	C	C
Growth Hormones	C*	C
Infertility Drugs	n/c	n/c
Medical Foods	C	C
Non-Preferred Brand Drugs	C	C
Off Label Drugs	C	C
Preferred Brand Drugs	C	C
Prenatal Vitamins	n/c**	C
Sexual Dysfunction Drugs	n/c	n/c
Smoking/Tobacco Cessation Drugs	C	C
Specialty Drugs	C	C

* The benefit is not discussed in the EHB BP documents but "Benefits also include services to treat the underlying medical conditions that cause infertility (e.g., hormone deficiency)" are covered. We assume growth hormones are covered.

** The benefit is not discussed in the EHB BP documents, but prenatal vitamins are generally not covered according to the Virginia BOI. We assume it is not covered.

³⁰ https://scc.virginia.gov/getattachment/6b226085-e530-4a13-bfa6-df2a80f71733/AL_22-02.pdf

VII Rehabilitative and Habilitative Services and Devices

Benefit Subcategories	EHB BP	FEHBP
Breast Prosthesis	C	C
Cardiac Rehabilitation	C	C
Cochlear Implants	C	C
Diabetes (blood glucose monitors, testing, etc.)	C	C
Enhanced Prosthetics	n/c	n/c
Habilitation for congenital or birth defect	c*	C
Hearing Aids (less than age 18)	n/c	C
Hearing aids (18 +)	n/c	C
Medical Equipment & Supplies	C	C
Medically Necessary Prosthetics	C	C
Occupational Therapy (surgery, injury, illness)	C	C
Orthotics & special footwear	n/c	C
Ostomy Supplies	C	C
Outpatient Physical Therapy	C	C
Oxygen	C	C
Pulmonary Rehabilitation	C	C
Rehab/Habilitation for disability from medical condition	C	C
Replacement or repair of DME	C	C
Respiratory Therapy Services	C	C
Speech Therapy (surgery, injury, or illness)	C	C
Speech Therapy to correct speech impediments	C	C
Wigs & Scalp Prosthetics for chemo	C	C

* The benefit is not discussed in the EHB BP documents, but we assume it is covered as a medically necessary service habilitative service.

VIII Laboratory Services

Benefit Subcategories	EHB BP	FEHBP
Diagnostic (Lab, X-ray, Imaging, etc.)	C	C
Genetic Testing	C	C

IX Preventive and Wellness Services and Chronic Disease Management

Benefit Subcategories	EHB BP	FEHBP
Colorectal Cancer Screening	C	C
Diabetic Education	C	C
Mammography	C	C
Osteoporosis screening	C*	C
Preventive Care for Women	C	C
Minimum one well-woman preventive visit (gynecological exam) annually	C	C
Screening for gestational diabetes between 24 and 28 wks	C	C
Screening for gestational diabetes at 1st prenatal visit at high risk for diabetes	C	C
HPV testing > 29 y/o every 3 years if normal pap	C	C
Annual counseling on sexually transmitted infections for all sexually active women	C	C
Annual screening for HIV for sexually active women	C	C
Contraceptive methods and counseling	C	C
Lactation support and counseling by a trained provider	C	C
Rental of Lactation Equipment	C	C
Screening & counseling for interpersonal and domestic violence	C	C
Preventive Health Mandated by ACA (immunizations, well child and adult care)	C	C
Prostate Specific Antigen (PSA)	C	C
Smoking/Tobacco Cessation Services	C	C

* The benefit is not discussed in the EHB BP documents, but we assume it is covered as a medically necessary preventive service.

X Pediatric Services, Including Oral and Vision Care

Benefit Subcategories	EHB BP	FEHBP
Basic dental services (fillings, periodontal disease, etc.)	C	C
Dental anesthesia and hospitalization for dental care to children under age 5, children who are severely disabled or children who have a medical condition that requires hospitalization or general anesthesia.	C	C
Dental Services Related to Accidental Injury	C	C
Dilated eye exam for diabetes related diagnosis	C	n/c
Eyeglasses or contact lenses (Adult Vision cannot be EHB)	C	n/c
Pediatric Oral Services	C	C
Pediatric Vision Care	C	C
Post-operative refractive examination	C*	n/c
Preventive dental services (exams, cleaning)	C	C
Refraction and glaucoma screening	C*	n/c
Routine Eye Exams (Adult Vision cannot be EHB)	C	C
Visual training services, including orthoptics and pleoptic training, provided to children under age 10 for the treatment of amblyopia	n/c**	C

* The benefit is not discussed in the EHB BP documents, but we assume it is covered as a medically necessary pediatric vision services.

** “Eye exercises – orthoptics and vision therapy” are specifically excluded with no exception of coverage for pediatric vision services.

Appendix B - State and Federal Regulations

State Mandated Benefits

This report addresses changes that can be made to the EHB BP. However, states may also require benefits or services be offered through legislation, which we call mandated benefits. By mandating benefits, states may also require benefits be offered in markets beyond just the individual and small group ACA markets, which would be affected by the EHB BP change. For example, the large group market (employers with more than 50 employees) provides insurance to approximately 1.1 million members, which is more than the combined individual and small group ACA market. The large group market would not be impacted by an EHB BP change but could be impacted by a mandated benefit if specified in the legislation.

It is important to note, however, that (1) mandating a benefit will likely have a premium impact, and (2) mandating a benefit may require the state pay for or “defray” the cost of benefits mandated in addition to the EHB BP in the individual and small group ACA market. A benefit required by Virginia prior to December 31, 2011, is considered an EHB. A benefit mandated by Virginia taking place on or after January 1, 2012, would be considered an “addition to the EHB,” which would require Virginia to defray the cost of the benefit in the individual and small group ACA market.

The following benefits were mandated to be covered by Virginia. All of these were enacted before 2012. Therefore, they are considered EHBs, and Virginia is not required to defray any costs for these benefits.^{31,32}

1. §38.2-3408 Reimbursement for services provided by certain practitioners other than physicians
2. §38.2-3409 Coverage for dependent children
3. §38.2-3410 Terms "physician" and "doctor" to include dentist
4. §38.2-3411 Coverage of newborn children
5. §38.2-3411.1 and §38.2-3411.3 Coverage for Childhood Immunizations and Well Baby Visits and Care
6. §38.2-3411.2 Coverage of adopted children required
7. §38.2-3411.4 Coverage for infant hearing screening and related diagnostics
8. §38.2-3412.1 Coverage for mental health and substance abuse services
9. §38.2-3414.1 Coverage for obstetrical services
10. §38.2-3414.1 Coverage for postpartum services

³¹ https://downloads.cms.gov/ccio/State%20Required%20Benefits_VA.PDF

³² “Preliminary Essential Health Benefits, Benefit Mandates, and Benchmark Plans.” February 2012. PricewaterhouseCoopers LLP.

11. §38.2-3415 Exclusion or reduction of benefits for certain causes prohibited
12. §38.2-3416 Insurer required to offer conversion policy or group coverage
13. §38.2-3418 Coverage for victims of rape and incest
14. §38.2-3418.1 Coverage for mammograms
15. §38.2-3418.1:2 Coverage for pap smears
16. §38.2-3418.2 Coverage of procedures involving bones and joints
17. §38.2-3418.3 Coverage for hemophilia and congenital bleeding disorders
18. §38.2-3418.4 Coverage for reconstructive breast surgery
19. §38.2-3418.5 Coverage for early intervention services
20. §38.2-3418.6 Minimal hospital stays mastectomy, certain lymph node dissection patients
21. §38.2-3418.7 Coverage for PSA (prostate-specific antigen) testing
22. §38.2-3418.7:1 Coverage for Colorectal Cancer Screenings
23. §38.2-3418.8 Coverage for clinical trials for treatment studies on cancer
24. §38.2-3418.9 Minimum hospital stays for hysterectomy
25. §38.2-3418.10 Coverage for diabetes
26. §38.2-3418.11 Coverage for hospice care
27. §38.2-3418.12 Coverage for Hospitalization and Anesthesia for dental procedures
28. §38.2-3418.14 Coverage for Lymphedema
29. §38.2-3418.16 Coverage for telemedicine services
30. §38.2-3418.17 Coverage for autism spectrum disorder (When enacted in 2011, this mandate only applied to the large group market. Later, the mandate was expanded to the individual and small group markets, but it does not apply to qualified health plans to the extent it requires benefits that would be in “addition to EHB.”)

The following mandated benefits are required to be offered³³. With the exception of Coverage for Morbid Obesity, these benefits are required to be provided for individual and small group health insurance coverage as they are included in the EHB BP:

1. §38.2-3407.5:1 Coverage for Prescription Contraceptives
2. §38.2-3411.1 Coverage for child health supervision services
3. §38.2-3414 Optional coverage for obstetrical services
4. §38.2-3417 Deductible and coinsurance options required
5. §38.2-3418.13 Coverage for Morbid Obesity (only applicable to the large group market)
6. §38.2-3418.15 Coverage for prosthetic devices and components (applicable to policies issued or renewed on and after January 1, 2010)

Mental Health Parity Requirements

The Mental Health Parity and Addiction Equity Act (MHPAEA) amended the Public Health Service Act (PHS Act), the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (the Code) to provide increased parity between mental health and substance use disorder benefits and medical/surgical benefits. In general, MHPAEA requires that the financial requirements (such as coinsurance) and treatment limitations (such as visit limits) imposed on mental health and substance use disorder benefits cannot be more restrictive than the predominant financial requirements and treatment limitations that apply to substantially all medical/surgical benefits.

The Affordable Care Act amended the PHS Act to apply MHPAEA to health insurance issuers offering individual health insurance coverage (both through the Health Insurance Marketplaces, also known as Exchanges, and outside the Marketplaces). These changes are effective for policy years beginning on or after January 1, 2014. The final rules apply to individual health insurance coverage for policy years beginning on or after July 1, 2014, and apply to both grandfathered and non-grandfathered plans.

³³ “Preliminary Essential Health Benefits, Benefit Mandates, and Benchmark Plans.” February 2012. PricewaterhouseCoopers LLP.

Appendix C – Virginia EHB Selection History

Original EHB BP and EHB Options considered by VA

Note there are ten possible EHB BP choices among the four plan types identified by HHS. Virginia focused on nine of the ten possible options. Based on information supplied by PWC³⁴, the following plans comprise the nine EHB BP choices analyzed:

1. Largest non-grandfathered small group insurance products in Virginia's small group market:
 - a) Anthem Health Plans of VA PPO
 - b) Anthem HealthKeepers HMO
 - c) Optima Vantage HMO
2. Largest three state employee health benefit plans by enrollment:
 - a) COVA Care
 - b) COVA Connect
 - c) Kaiser
3. Largest three national Federal Employees Health Benefits Plans (FEHBP).
 - a) FEHBP BCBS Standard Option
 - b) FEHBP BCBS Basic Option
 - c) Government Employees Health Association (GEHA)
4. Largest insured commercial non-Medicaid Health Maintenance Organization (HMO) operating in the state.
 - a) This plan was not included in the consideration of EHB BP selection.³⁵

Original EHB BP and EHB Option chosen by VA

Plan chosen for EHB BP was the Anthem Small Group PPO Plan KeyCare 30 with KC30 Rx Plan 10 30 50 OR 20 with supplemental pediatric oral and pediatric vision as supplemental categories.³⁶

EHB Reconsideration in 2015

Virginia again adopted the Anthem Health Plans of VA (Anthem BCBS) Premier DirectAccess PPO as the EHB BP beginning 2017, with only pediatric dental as a supplemental category.³⁷

³⁴ “Preliminary Essential Health Benefits, Benefit Mandates, and Benchmark Plans.” February 2012. PricewaterhouseCoopers LLP.

³⁵ Per e-mail from the VA BOI dated Sept 16, 2022, no documentation that suggested this plan was ever identified or considered.

³⁶ <https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/Updated-Virginia-Benchmark-Summary.pdf>.

³⁷ <https://www.cms.gov/CCIIO/Resources/Data-Resources/ehb#Virginia>

Below are the changes in benefits from the change in the EHB BP:³⁸

Benchmark Change

- Pediatric Vision benchmark is no longer FEDVIP but Anthem benchmark plan (eye exam, eyeglass lenses, frames, and contact lenses).

Additional Benefits

- Pursuant to 45 CFR 156.115 (a)(5)(iii), limits imposed on habilitative and rehabilitative services and devices cannot be a combined limit for 2017
- Expanded description of speech therapy to include swallowing skills
- Preventive care services: added screening for pregnant women or women who may become pregnant in Maternity section; added all current preventive care requirements in Preventive Care section; one breast pump per pregnancy must be provided with no cost sharing; must cover all methods of women's contraception and sterilization; separate Wellness services category deleted and added to Preventive care category; Smoking and tobacco cessation products moved to preventive care "A and B" category with no cost sharing.
- This benchmark specifically covers sterilization services and services to reverse a non-elective sterilization resulting from an illness or injury
- Pulmonary rehab therapy
- Hearing and vision diagnostic tests for a medical condition or injury
- New advanced imaging diagnostic services: PET/CT Fusion scans, SPECT scans, QTC Bone Densitometry, diagnostic CT colonography
- Colostomy and other ostomy supplies directly related to ostomy care, composite facial prosthesis, and wig needed after cancer treatment covered under Prosthetics (New)
- Expanded description of transplant surgery covering any medically necessary stem cell/bone marrow transplants, instead of only autologous bone marrow transplants for breast cancer
- Added outpatient treatment of TMJ in addition to the existing inpatient treatment. Appliances for TMJ were previously excluded. In the 2017 benchmark plan appliances for TMJ that reposition the teeth, fillings, or prosthetics are excluded, but coverage does include removable appliances for TMJ repositioning

³⁸ From the file "Changes to EHB 2014 to 2017" provided by the Virginia BOI.



New Exclusions

- Expanded list of alternative medicine therapies excluded
- Court-ordered testing
- Prosthetics for sports or cosmetic purposes

No Longer Excluded

- Recreation therapy was removed as an exclusion.
- Appliances for TMJ were previously excluded. In the 2017 benchmark plan, appliances for TMJ that reposition the teeth, fillings, or prosthetics are excluded, but coverage does include removable appliances for TMJ repositioning (new).
- Donor searches are no longer excluded but should not be a required benefit since the schedule of benefits for the 2017 benchmark only indicates searches are approved on a case-by-case basis.
- Nutrition counseling is covered as a preventive care service and is covered for hospice and home care services. It is no longer an exclusion.
- No longer a catchall exclusion for Mental health services – services for sexual dysfunction are still excluded, but not as a mental health service.