

Report on the Interim Activity of the Virginia Disability Commission 2023

Members

Legislative Members:

Senator Barbara A. Favola, Chair
Delegate Robert D. Orrock, Sr., Vice Chair
Senator Ghazala F. Hashmi
Delegate Patrick A. Hope
Delegate Phillip A. Scott
Delegate H. Otto Wachsmann, Jr.

Citizen Members:

Gayl Brunk
Conner Cummings
Amy Laufer
John Tolleris

Staff:

Julia Carlton, Senior Attorney, Division of Legislative Services
Hannah Yates, Attorney, Division of Legislative Services
Trevor Merrion, Senior Associate, Division of Legislative Services

Website:

<http://dls.virginia.gov/commissions/vdc.htm>

BACKGROUND

The Virginia Disability Commission is the legislative body charged with identifying and recommending legislative priorities and policies for adoption or examination by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with disabilities.

OVERVIEW

The Virginia Disability Commission (the Commission) met four times during the 2023 Interim.

The first meeting was held on April 11, 2023, and included presentations on (i) legislation of interest to the Commission from the 2023 Session of the General Assembly and (ii) barriers to community integration by people with physical and/or sensory disabilities as identified by the Virginia Association for Centers of Independent Living (VACIL). Members discussed the proposed schedule for the Commission's meetings in the remainder of the 2023 interim, and Senator Favola provided an overview of a letter she received from Mr. Dennis Findley, available [here](#), which was a follow-up to a letter he submitted to the Commission in the previous interim that was related to the question of disregarding an individual's Social Security Disability Insurance (SSDI) income when determining their eligibility for Medicaid waivers.

The second meeting was held on July 17, 2023, and included presentations on (a) less restrictive income methodologies under § 1902(r)(2) of the Social Security Act and (b) priority needs for independent living as identified by VACIL. The members discussed the electronic meeting policy (Appendix A) that was proposed by Senator Favola prior to this meeting.

The third meeting was held on September 21, 2023, and included presentations on (1) the transition process for students with disabilities and a recommendations update from the Virginia Commission on Youth (VCOY) and (2) SB 213 (Favola, 2020) work group recommendations for changing Medicaid programs to remove barriers to independence.

At the September 21, 2023, meeting, a motion was put forth that the Commission adopt the electronic meeting policy that was originally proposed in June 2023. The motion passed unanimously. There was also a motion for the chair of the Commission to write a letter to the Governor requesting the inclusion of a transition coordinator grant program under DOE in the upcoming budget. The motion passed unanimously. There was additionally a motion for the chair to write to the Governor requesting the inclusion in the upcoming budget of (i) an increase of the Personal Maintenance Allowance (PMA) to 200% of the Supplemental Security Income (SSI) amount and (ii) the continuation of the PMA to individuals temporarily in institutional settings. The motion passed unanimously.

The fourth meeting was held on November 20, 2023, and was devoted exclusively to reviewing 22 recommendations that were presented to the Commission during the 2023 interim. Several motions passed unanimously during this meeting, as detailed below.

Full summaries of the meetings, including public comment and member discussion, are available below.

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COMMISSION RECOMMENDATIONS AND MOTIONS

Recommendations and Motions Considered by the Commission on September 21, 2023:

1. The motion to adopt the virtual meeting policy as proposed in June 2023 (Appendix A) passed unanimously.
2. The motion for the chair of the Commission to write a letter to the Governor requesting the inclusion of a transition coordinator grant program under DOE in the upcoming budget passed unanimously.
3. The motion for the chair to write to the Governor requesting the inclusion in the upcoming budget of (i) an increase of the PMA to 200% of the SSI amount and (ii) the continuation of the PMA to individuals temporarily in institutional settings passed unanimously.

Recommendations and Motions Considered by the Commission on November 20, 2023:

#	Source	Description	Chair Comments	Fiscal Impact	Motion
1	Virginia Commission on Youth (VCOY)	Introduce a budget amendment directing the Department for Aging and Rehabilitative Services (DARS) to work with the Department of Education (VDOE), the Department of Behavioral Health and Developmental Services, the Parent Educational Advocacy Training Center (PEATC), Virginia Commonwealth University’s Partnership for People with Disabilities, and Center	This language-only budget strategy was endorsed by VCOY and widely endorsed by stakeholders. In 2023, the language was included in the Senate budget bill but was not included in the final budget package.	Minimal	Motion to introduce as a Section 1 bill was adopted with unanimous consent.

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		<p>on Transition Innovations to ensure that online resources are readily available and disseminated to all individuals of transition age and their families. This includes utilization and promotion of PEATC's online training course, Transition University, conducted in coordination with VDOE and PEATC's online transition guide and resource documents on its website.</p>			
2	VCOY	<p>Request that DARS work with Virginia Commonwealth University's Partnership for People with Disabilities and PEATC to develop and disseminate virtual training on transition resources and services for teachers in each high school or school district.</p>	<p>This request was included in a letter from VCOY to DARS.</p> <p>Recommendation: VDC requests a language-only provision in the budget.</p>	Minimal	<p>Motion to submit the request to DARS via a letter from the VDC was adopted with unanimous consent.</p>
3	VCOY	<p>Request that DARS continue to develop internship opportunities for students with</p>	<p>VCOY sent a letter to DARS and was told this request could be fulfilled using current resources.</p>	None	<p>Motion to submit the request to DARS via a letter from the VDC</p>

	<p>disabilities. DARS should work in collaboration with other state agencies and local governments, including the Department of Labor and Industry, VDOE (the Office of Career, Technical, and Adult Education as well as the Division of Special Education and Student Services), Department for the Blind and Vision Impaired, Department for the Deaf and Hard-of-Hearing, and Department of Behavioral Health and Developmental Services, as well as the Virginia Chamber of Commerce, local chambers of commerce, businesses, and other relevant organizations to provide internship opportunities for students with disabilities. These opportunities will ensure that each student with a disability has a blueprint for their career and job placement after high school.</p>	<p>Recommendation: VDC also sends a letter to DARS regarding this request.</p>		<p>was adopted with unanimous consent.</p>
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4	VCOY	<p>Request that the Secretary of Education, in coordination with the Secretary of Health and Human Resources, Secretary of Labor, and Secretary of Commerce and Trade, investigate the feasibility of developing a comprehensive program to reduce unemployment among adults with disabilities by assisting and supporting businesses to attract, hire, train, and retain adults with disabilities.</p> <p>The new Department of Workforce Development and Advancement must be included in this effort.</p>	<p>VCOY sent a letter to the Secretary of Education but has not received a response.</p> <p>Recommendation: VDC requests budget language to allocate resources to ensure the completion of this effort.</p>	Minor	<p>Motion to submit request via a budget language amendment was adopted with unanimous consent.</p>
5	VCOY	<p>Introduce a budget amendment to fund a transition coordinator grant program to be administered through VDOE. These transition coordinators shall be employed by local school divisions and work with other community partners, such as local community</p>	<p>VDC agreed that the chair send a letter to the Governor. VCOY asked for \$250,000 to fund these transition coordinators. It was not included in the budget.</p> <p>Recommendation: VDC requests \$250,000 to fund a transition coordinator grant program.</p>	Subject to the level of funding provided.	<p>Recommendation was amended to include higher education opportunities along with employment opportunities.</p> <p>Motion to submit request via a budget language amendment was adopted with unanimous consent.</p>

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		services boards and other agencies, to assist students with disabilities and their families in preparing for future service needs and employment opportunities. School districts shall apply to VDOE to receive grant funding for transition coordinator positions.			
6	VCOY	Introduce a language-only budget amendment directing VDOE to have the Virginia Intercommunity Transition Council meet at least biannually to help implement its statewide plan for oversight of local practices related to transition planning and services. The objective of the Council shall include streamlining and collaboration, developing a better transition communication network in the Commonwealth, educating all members about what Virginia and local organizations	<p>VDOE is taking steps to implement this in 2024.</p> <p>According to VDOE's report titled <i>Statewide Plan to Ensure Effective Local Implementation of Secondary Transition Planning and Services (2022)</i>, VDOE will convene a work group with a variety of stakeholders to explore secondary transition strategies using both research and high-performing states in the area of transition that can be adopted or applied in the Commonwealth.</p> <p>See page 17 of 44 at: https://rga.lis.virginia.gov/Published/2023/RD351/PDF</p>	Minimal	Motion for the VDC to send a letter to VDOE asking for a status update was adopted with unanimous consent.

		<p>provide for students transitioning to adulthood, identifying any gaps or overlap in services for potential streamlining and problem solving, and developing an improved transition infrastructure for students with different abilities. The Council shall include DARS, the Department of Behavioral Health and Developmental Services, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing, the Department of Social Services, the Virginia Community College System, and Virginia Commonwealth University's Partnership for People with Disabilities.</p>			
7	<p>Virginia Association of Centers for Independent Living (VACIL)</p>	<p>Reestablish Medicaid transition coordination services.</p>	<p>Recommendation: VDC endorses this policy and requests \$350,000 to support this effort.</p>	<p>Moderate</p>	<p>Chair inquired about the scope of the transition coordination services.</p> <p>Motion to adopt Recommendation</p>

					#7 via a budget amendment was approved with unanimous consent.
8	VACIL	Increase state rates for personal assistance.	<p>Per VACIL, the Department of Medical Assistance Services (DMAS) contracted earlier this year with Guidehouse for a rate study in preparation for a new Medicaid waiver for people with brain injury. VACIL indicated it would support any rate recommendations that emerged from this study.</p> <p>Recommendation: VDC asks for a status report on the DMAS/Guidehouse rate study.</p>	<p>Rates have a large fiscal impact.</p> <p>Status report: none.</p>	Motion to adopt Recommendation #8 via a letter to DMAS was approved with unanimous consent.
9	VACIL	Fund new Centers for Independent Living (CIL) in unserved areas.	<p>As VACIL explained, the concept for this funding is that a satellite CIL in any community that is not served by an existing CIL has the opportunity to develop the necessary structure and gain the necessary skills and knowledge to help ensure success for the new CIL when funding becomes available.</p> <p>DARS has included in its decision package funding for the satellite CIL currently serving the Crater District to become a CIL.</p> <p>Additional staff would be needed for this transition. Depending on the situation, the staff could work out of an existing CIL or within the space of a partnering organization in the geographical area to be covered by the satellite CIL, and such workspace could change as the satellite CIL becomes more established in the geographical area to be covered by the CIL.</p>	Subject to the level of funding provided.	Motion to adopt Recommendation #9 (budget language) was approved with unanimous consent.

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			Recommendation: VDC requests appropriate budget language to fund a \$500,000 pilot program.		
10	VACIL	Direct the Department of Housing and Community Development (DHCD) to provide a report about progress on the provisions of SB 839 (Locke, 2023), particularly regarding housing affordability and accessibility.	Recommendation: VDC receives a report in 2024 from DHCD about the progress being made to address housing affordability and accessibility.	None	Motion for the VDC to send a letter to the DHCD asking for a status report was adopted with unanimous consent.
11	VACIL	Request a study to determine how the auxiliary grant income supplement through Supplemental Security Income (SSI) can be used to support people in their own homes through rental assistance. The study would need to identify how this support could be organized, what level of support would be provided, and any potential fiscal impact due to staffing changes. Additionally, the State Rental Assistance Program that serves	Per VACIL, the Commonwealth has one of the highest SSI supplements in the country. However, the supplement is used exclusively for segregated housing through auxiliary grants for assisted living facilities. Allowing the SSI supplement to be used for rental housing in apartments and homes would allow people to live more independently and be more integrated into their communities. Recommendation: VDC requests a study resolution.	Likely have to use a consultant, so could be up to \$250,000.	Motion for VDC to send a letter to the VHC asking for studies of the issues addressed in both Recommendation #11 and Recommendation #12 was adopted with unanimous consent.

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		people with disabilities who are on the waiting list for or receiving a Medicaid Developmental Disability waiver should be reviewed as part of this study to determine the benefits and administrative issues that exist within the Program.			
12	VACIL	Modify the Uniform Statewide Building Code to expand the number of Type A units that must be accessible.	VACIL proposes that this modification apply to new construction and significantly renovated multi-unit buildings, with a caveat that properties be encouraged to modify preexisting units to expand the number of Type A units. Recommendation: VDC sends a letter to the Virginia Housing Commission (VHC) asking it to study this matter.	A study by the VHC would be minimal.	Motion for VDC to send a letter to the VHC asking for studies of the issues addressed in both Recommendation #11 and Recommendation #12 was adopted with unanimous consent.
13	VACIL	Direct the Department of Transportation to conduct a study on rural transportation to accomplish the following: a) Identify current rural transportation options and barriers and limitations to these options;	Recommendation: VDC submits budget language and requests \$200,000 to support this study.	If VDOT can do it then probably minimal.	Motion to adopt Recommendation #13 (budget language) was approved with unanimous consent.

		<ul style="list-style-type: none"> b) Identify regular route bus barriers and advocate for resolution of these barriers; c) Identify paratransit issues and advocate for resolution of these issues; and d) Educate transportation network companies about the need for accessible vehicles. 			
14	Motion of the VDC	Direct DMAS to study ways to change or enhance the Medicaid Works program in order to enable a greater number of participants to utilize the program successfully.	Recommendation: VDC requests a language-only budget amendment.	Minimal	Motion to submit request via a Section 1 bill was adopted with unanimous consent.
15	Motion of the VDC	Direct VDOE to provide training to high school faculty members who are responsible for special education transition planning and coordination.	Recommendation: VDC submits budget language and requests \$100,000 to support this training.	Would require staffing resources at VDOE.	Motion to defer action on Recommendation #15 until after receiving the status update related to Recommendation #6 was approved.

		Currently, there is no training mandated by the Code of Virginia for high school faculty members who are publicly identified as being responsible for special education transition planning and coordination. Pursuant to § 22.1-217.3 of the Code of Virginia, it is only required that such person be identified on the school's website.			
16		Amend § 2.2-3708.3 and the definition of “remote participation” under § 2.2-3701 of the Code of Virginia to allow members of public bodies who meet the definition of a “person with a disability” under § 51.5-40.1 or a person with a disability's caretaker to participate remotely in meetings of public bodies and count toward the quorum of that public body when they participate remotely.	Recommendation: VDC supports legislation that meets this goal.	None	Motion to adopt Recommendation #16 (bill) was approved with unanimous consent.

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17	Virginia Autism Project	Direct VDOE to publish guidelines established by HB 134 (Runion, 2020) and SB 186 (Dunnavant, 2020) for individualized education program (IEP) teams to utilize when developing IEPs for children with disabilities to ensure that IEP teams consider the need for age-appropriate and developmentally appropriate instruction related to sexual health, self-restraint, self-protection, respect for personal privacy, and personal boundaries of others.	Recommendation: VDC supports a Section 1 bill to accomplish this.	Minimal	Motion to adopt Recommendation #17 (Section 1 bill) was approved with unanimous consent.
18	Virginia Autism Project	Provide that no individual shall be subject to arrest or prosecution for an assault or assault and battery against a law-enforcement officer if at the time of the assault or assault and battery (i) the individual (a) is experiencing a mental health emergency or (b) meets the criteria for issuance of an emergency custody	Recommendation: VDC coordinates with the Behavioral Health Commission (BHC) on legislative language.	None	Motion for the VDC to send a letter to the BHC asking the BHC to investigate this matter to see if there is a means by which the policy implications may be addressed was adopted with unanimous consent.

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		<p>order pursuant to § 37.2-808 of the Code of Virginia and (ii) the law-enforcement officer subject to the assault or assault and battery was responding to a call for service requesting assistance for such individual. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later determined that the person arrested was immune from prosecution.</p> <p>Recommendation description derived from HB 1561 (Watts, 2023).</p>			
19	Virginia Autism Project	<p><i>Direct DMAS to take steps to amend the Family and Individual Supports, Community Living, and Building Independence waivers and implement regulations to (i) combine the maximum annual allowable amount for assistive technology and electronic home-based</i></p>	<p><i>Senate Finance confirmed on 11/20/2023 that this recommendation was fully funded as part of the Medicaid forecast process. No additional action is required.</i></p>	<p><i>The funding for this was included in the Medicaid forecast process.</i></p>	<p>Commission members directed VDC staff to arrange a presentation by DMAS regarding Recommendation #19 and Recommendation #20 during the 2024 Interim.</p>

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		<p><i>support services for an individual receiving waiver services to provide for greater flexibility and better meet the needs of individuals receiving services and (ii) provide that a total of \$10,000 shall be available to an eligible individual for assistive technology and electronic home-based support services each year, which may be divided among such services in the manner that best meets the needs of the individual.</i></p> <p><i>Recommendation description derived from HB 1963 (Runion, 2023) and SB 945 (Suetterlein, 2023).</i></p>			
20	Virginia Autism Project	Direct DMAS to conduct a study into the feasibility of applying less restrictive income methodologies under § 1902(r)(2) of the Social Security Act when determining Medicaid waiver eligibility in order to protect	At VDC's September 2023 meeting, Kelly Pauley of DMAS explained that DMAS consulted with the Centers for Medicare & Medicaid Services and was told that DMAS could not disregard SSDI income for Medicaid waiver recipients only and that the income disregard would have to be applied to all Medicaid recipients, which would have a significant fiscal impact on DMAS.	Study would be minimal. Policy change likely significant.	Commission members directed VDC staff to arrange a presentation by DMAS regarding Recommendation #19 and Recommendation #20 during the 2024 Interim.

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		individuals from losing their Medicaid waiver eligibility when switching from SSI to Social Security Disability Insurance (SSDI) income.	Recommendation: VDC directs DMAS to monitor federal regulations governing this issue.		
21	Chair of VDC	Introduce a budget amendment to eliminate the waiting list for Priority One individuals seeking a Medicaid Developmental Disability waiver	<p>Recommendation: VDC supports any progress in this area.</p> <p>*Per Senate Finance staff: The waiting list has just over 3,000 individuals identified as Priority 1; however, the Priority 1 list grows by 500 to 1,000 individuals each year. Therefore, to eliminate the waiting list you would need to create 1,500 slots each year of the biennial for the current waiting list and then would likely need to add an additional 1,000 slot each year to cover the growth in the waiting list annually. This brings the total number of slots needed to 2,500 each year. Senate Finance staff estimate the cost of this to be \$66.4 million GF in FY 2025 and \$138.9 million in FY 2026 for a total of \$205.3 million GF over the biennium.</p>	Large*	Motion for the VDC to send a letter to the Governor, the Senate Finance Committee, and the House Appropriations Committee stipulating the VDC's support for progress toward reducing the waiting list and requesting a staggered plan for eliminating the waiting list over time was adopted with unanimous consent.
22	Virginia Poverty Law Center (VPLC)	Direct the Joint Commission on Health Care (JCHC) to conduct a study on aligning Medicaid eligibility criteria across programs to eliminate benefit cliffs between Medicaid Expansion and other Medicaid programs.	Recommendation: VDC shall present this issue to the JCHC for action.		Motion for the VDC to send a letter to the JCHC requesting further information regarding this matter was adopted with unanimous consent.

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		<p>Per VPLC, “A study that could look at the various Medicaid program eligibility criteria holistically to suggest reforms to better align all Medicaid program eligibility to eliminate benefit cliffs could hopefully help simplify many of the issues that crop up across programs and allow for better consumer and agency understanding and implementation.”</p>			
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MEETING SUMMARIES

Report on the Interim Activity of the Virginia Disability Commission – 2023

April 11, 2023, at 2:00 p.m.

Pocahontas Building, Senate Committee Room A

<http://dls.virginia.gov/commissions/vdc.htm>

The Report on the Interim Activity of the Virginia Disability Commission – 2023 (the Commission) met in Richmond with Senator Barbara A. Favola, chair, presiding.¹ The meeting began with introductions and opening remarks, followed by presentations, member discussion, and public comment. Materials presented at the meeting are accessible through the [Commission's meetings webpage](#). Video recording of the meeting is available [here](#).

Presentation: Review of Legislation of Interest from the 2023 Session of the General Assembly

Julia Carlton, Senior Attorney, Division of Legislative Services

Ms. Carlton summarized several bills passed during the 2023 Session of the General Assembly that affect individuals with disabilities in the Commonwealth, including the following:

HB 1450 (Orrock)/SB 798 (Hashmi) — Individuals with disabilities; terminology.

HB 1512 (Adams) — State plan for medical assistance services; durable medical equipment; complex rehabilitation technology.

HB 1554 (Brewer)/SB 943 (Suetterlein) — Public high schools; special education; identification of faculty member responsible for school transition planning and coordination.

HB 1640 (Kilgore)/SB 1409 (Barker) — Medicare supplement policies for certain individuals under age 65.

HB 1659 (Bell)/SB 830 (Favola) — Department of Behavioral Health and Developmental Services; Department of Education; best practice standards related to the transition of records and transfer of services for students with disabilities.

HB 1725 (VanValkenburg) — Virginia Fair Housing Law; use of assistance animal in a dwelling; penalties.

HB 1884 (Wampler) — Standards of Learning assessment revision work group; consideration of effectiveness of assessments for students with disabilities.

HB 1924 (Hope) — Minimum wage; employees with disabilities.

¹ **Members Present:** Senator Barbara A. Favola (chair), Delegate Robert D. Orrock, Sr. (vice-chair), Senator Ghazala F. Hashmi, Delegate Patrick A. Hope, Delegate Phillip A. Scott, Delegate H. Otto Wachsmann, Jr., Gayl Brunk (virtual), Conner Cummings (virtual), Amy Laufer, John Tolleris

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HB 1963 (Runion)/SB 945 (Suetterlein) — Department of Medical Assistance Services; services for individuals with developmental disabilities; financial flexibility; report.

HB 2153 (Guzman) — Department of Human Resource Management; alternative application process for the employment of persons with a disability; policy update.

HB 2172 (Sickles) — Rights of persons with disabilities; definitions; mobility-impaired person.

HB 2338 (McQuinn)/SB 1326 (McClellan/McPike) — Transit Ridership Incentive Program; use of funds; improving accessibility.

HB 2492 (Seibold) — Virginia Board for People with Disabilities; membership; terminology.

A chart listing these bills' reviewing committees and summaries is available [here](#).

Presentation: Barriers to Community Integration by People with Physical and/or Sensory Disabilities

Maureen Hollowell, Advocacy Coordinator, Virginia Association of Centers for Independent Living (VACIL)

Ms. Hollowell opened by emphasizing that she was presenting a broad picture of a complex issue with many individualized factors and resources. She provided an introduction to VACIL and the services it provides. Ms. Hollowell highlighted seven aspects of community integration in her presentation, including housing, transportation, personal assistance support, employment, nursing facilities, sign language interpretation, and technology, and listed action items for improving community integration in these areas. The slides for Ms. Hollowell's presentation are available [here](#).

Following the presentation, the members discussed the importance of establishing a strategic plan that would identify (i) the costs associated with addressing these issues, (ii) the most urgent needs, (iii) areas for cost savings and greater efficiency, and (iv) the long-term savings that would be generated through greater community integration. There was an observation that establishing priorities may benefit some regions of the Commonwealth more than others, as well as an inquiry into the possibility of centralizing the information and resources available to individuals with disabilities. Senator Favola encouraged VACIL to identify five areas or recommendations to explore further during a presentation at the Commission's June meeting.

Member Discussion and Review of 2023 Interim Meeting Schedule

The members discussed the proposed schedule for the Commission's meetings in the remainder of the 2023 interim, with members noting potential conflicts on June 6 and November 14.

Summation of Letter Dated April 5, 2023, from Dennis Michael Findley to Senator Favola

Senator Favola

Senator Favola provided an overview of a letter she received from Mr. Findley, available [here](#), which was a follow-up to a letter he submitted to the Commission in the previous interim that was related to the question of disregarding an individual's Social Security Disability Insurance (SSDI) income when determining their eligibility for Medicaid waivers. Mr. Findley included a document from the Centers for Medicare & Medicaid Services (CMS) titled, "Implementation

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Guide: Medicaid State Plan Eligibility Less Restrictive Income Methodologies under 1902(r)(2)," which is available [here](#).

Public Comment

Teresa Champion of the Virginia Autism Project emphasized that autism is not linear and that there is a need to recognize this in order to keep autistics out of jails and the criminal justice system. She also spoke in favor of paying family members to serve as caregivers, underscoring that serving as a caregiver is different than parenting. Mr. Findley discussed his April 5 letter to Senator Favola and reiterated that CMS gives states the right to define their eligibility criteria for different population groups receiving Medicaid.

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Report on the Interim Activity of the Virginia Disability Commission – 2023

July 17, 2023, at 2:00 p.m.

Pocahontas Building, Senate Committee Room A

<http://dls.virginia.gov/commissions/vdc.htm>

The Report on the Interim Activity of the Virginia Disability Commission – 2023 (the Commission) met in Richmond with Senator Barbara A. Favola, chair, presiding.² The meeting included presentations, member discussion, and public comment. Materials presented at the meeting are accessible through the [Commission's meetings webpage](#). Video recording of the meeting is available [here](#).

Presentation: Less Restrictive Income Methodologies under § 1902(r)(2)

Kelly Pauley, Eligibility and Enrollment Manager, Department of Medical Assistance Services (DMAS)

Ms. Pauley reviewed information she had received from the Centers for Medicare & Medicaid Services (CMS), explaining that less restrictive methodologies for determining eligibility had been in place since 2001. Following technical difficulties, her presentation was resumed by Will Frank, legislative liaison for DMAS. Mr. Frank explained that states are required to follow the same rules and processes used by the most closely related cash assistance program to determine eligibility, while § 1902(r)(2) allows states to use less restrictive methodologies in determining eligibility for most Medicaid eligibility groups than are used by the cash assistance programs. Mr. Frank affirmed that states can disregard a specific kind of income, such as Social Security Disability Insurance (SSDI), as long as the disregard is applied to the entire eligibility group. Ms. Pauley clarified that although these income disregards could be applied during the eligibility determination phase, the income would be subsequently included when calculating the patient pay amount, therefore the disregards would not enable the individual to receive greater income. The presentation concluded with a description of the Medicaid Works program and steps being taken to make the program more flexible and accessible, including by allowing individuals to maintain their developmental disability waiver status while participating in Medicaid Works. Dennis Findley, who brought this inquiry to the Commission in April, emphasized that the issue of greatest concern is what happens to severely disabled individuals who lose their Medicaid eligibility as a result of being transferred from Supplemental Security Income to SSDI upon the retirement or death of a parent. Members discussed their interest in learning more from DMAS about this specific issue and what options are available for addressing it.

Presentation: Priority Needs for Independent Living

Maureen Hollowell, Advocacy Coordinator, Virginia Association of Centers for Independent

² **Members Present:** Senator Barbara A. Favola (chair), Senator Ghazala F. Hashmi, Delegate Patrick A. Hope, Delegate Phillip A. Scott, Delegate H. Otto Wachsmann, Jr., Gayl Brunk, and John Tolleris.

Members Absent: Delegate Robert D. Orrock, Sr. (vice-chair), Conner Cummings, and Amy Laufer.

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Living (VACIL)

Ms. Hollowell opened with an introduction to centers for independent living (CILs) and a review of her presentation before the Commission in April 2023 relating to barriers to independent living. She explained that at the request of the Commission her organization honed its list of priorities for improving accessibility, focusing on funding recommendations, recommendations not requiring funding, and recommendations that could be pursued by CILs with additional funding. VACIL's recommendations covered the categories of housing, transportation, personal assistance support, employment, nursing facilities, and technology. The specific recommendations are listed in the [presentation's PowerPoint](#).

Ms. Hollowell noted that several issues highlighted in her presentation could be addressed through Americans with Disabilities Act (ADA) complaints or Medicaid appeals and could benefit a small number of people but that VACIL's recommendations are aimed at proactively removing barriers to improve the system in order to better serve a greater number of people. She concluded her presentation by responding to member inquiries.

Senator Favola expressed an interest in submitting VACIL's funding recommendations to the Senate Committee on Finance or House Committee on Appropriations to determine their budget impact and explained that the recommendations may be considered at a later meeting this interim when the Commission votes on its legislative recommendations for the 2024 Session.

Member Discussion and Review of Proposed Electronic Meeting Policy

Senator Favola introduced the proposed electronic meeting policy and explained that it was derived from the recently approved electronic meeting policy of the Joint Commission on Health Care. The policy closely follows the relevant requirements enumerated in the Code of Virginia, with the exceptions that (i) members living more than 60 miles from the meeting site may not use this as a circumstance to justify remote participation and (ii) members participating remotely may not make motions or vote and do not count toward the quorum. In discussing the electronic meeting policy, a motion was made and seconded to remove the exception preventing members participating remotely from voting or making motions. Senator Favola indicated her intention to hold a vote on the policy at the next meeting of the Commission.

Public Comment

Teresa Champion of the Virginia Autism Project spoke in favor of addressing the issue of severely disabled individuals losing their Medicaid eligibility upon the death of a parent. On that topic, Lucy Beadnell of The Arc of Northern Virginia noted that there were new Medicaid flexibilities introduced by CMS in 2019 that should be examined by the Commission.

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Report on the Interim Activity of the Virginia Disability Commission – 2023

September 21, 2023, at 2:00 p.m.

Pocahontas Building, Senate Committee Room A

<http://dls.virginia.gov/commissions/vdc.htm>

The Report on the Interim Activity of the Virginia Disability Commission – 2023 (the Commission) met in Richmond with Senator Barbara A. Favola, chair, presiding.³ The meeting included presentations, member discussion, and public comment. Materials presented at the meeting are accessible through the [Commission's meetings webpage](#). Video recording of the meeting is available [here](#).

Presentation: Transition Process for Students with Disabilities: Recommendations Update

Will Egen, Policy Analyst, Virginia Commission on Youth (VCOY)

Mr. Egen gave an overview of VCOY's 2022 study into transition services for individuals with disabilities moving into adulthood, reviewing how the Department of Education (DOE), the Department of Behavioral Health and Developmental Services (DBHDS), and the Department for Aging and Rehabilitative Services (DARS) currently assist such individuals, while also highlighting barriers contributing to the "cliff" effect experienced by individuals who reach the age of majority without successfully transitioning to adult services. Mr. Egen concluded his presentation by reviewing the recommendations adopted by VCOY and their status following both the 2023 Session of the General Assembly and recent developments at state agencies. These status updates are included in the presentation materials available [here](#). There was a motion for the chair of the Commission to write a letter to the Governor requesting the inclusion of a transition coordinator grant program under DOE (VCOY's Recommendation 6) in the upcoming budget. The motion passed unanimously. A motion for the Commission to consider at its upcoming November meeting VCOY's Recommendation 2, which suggested relevant agencies develop online resources for individuals of transition age and their families, and Recommendation 9, which suggested DOE have the Virginia Intercommunity Transition Council meet at least biannually to help implement its statewide plan for oversight of local practices related to transition planning and services, passed unanimously. The chair followed this motion with a request for the presentation of all of VCOY's outstanding recommendations for the Commission's consideration at its November 2023 meeting. There was a motion for the Commission to consider at its November 2023 meeting whether to recommend requiring the Commonwealth to provide training for individuals at high schools responsible for transition planning and coordination. The motion passed unanimously. It was noted during the presentation that, as of 2022, DARS was providing transition services to less than 12 percent of eligible students, and members requested additional information from DARS regarding the cost and

³ **Members Present:** Senator Barbara A. Favola (chair), Delegate Robert D. Orrock, Sr. (vice-chair), Senator Ghazala F. Hashmi, Delegate Phillip A. Scott, Delegate H. Otto Wachsmann, Jr., Conner Cummings, Amy Laufer
Members Absent: Delegate Patrick A. Hope, Gayl Brunk, John Tolleris

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feasibility of increasing the percentage of eligible students receiving these services. VCOY's final report from the study is available [here](#).

Presentation: SB 213 (Favola, 2020) Work Group Recommendations for Changing Medicaid Programs to Remove Barriers to Independence

Kelly Pauley, Eligibility and Enrollment Manager, DBHDS

Ms. Pauley revisited her September 2022 presentation before the Commission, which reviewed the SB 213 work group's recommendations for changes to the Personal Maintenance Allowance (PMA) for individuals receiving Medicaid waivers. DMAS's final report to the General Assembly with a full summary of the work group's recommendations is available [here](#). Discussion of the Medicaid Works program led to a request for a recommendation to be considered at the Commission's November 2023 regarding whether DMAS should be directed to study ways to change the Medicaid Works support package to enable more individuals to succeed. Following the review of the work group's recommendations, there was a motion for the chair to write to the Governor requesting the inclusion in the upcoming budget of (i) an increase of the PMA to 200% of the Supplemental Security Income (SSI) amount and (ii) the continuation of the PMA to individuals temporarily in institutional settings. The motion passed unanimously.

There was discussion of Michael Findley's previous inquiry related to disregarding Social Security Disability Insurance (SSDI) for individuals receiving Medicaid waivers to avoid individuals losing Medicaid coverage when they are transferred from SSI to SSDI income. Ms. Pauley explained that the Centers for Medicare & Medicaid Services told DMAS that an SSDI income disregard could not be applied solely to Medicaid waiver recipients, but that it would need to be applied to all Medicaid recipients, which would have a larger fiscal impact.

Member Discussion and Vote on Proposed Electronic Meeting Policy

Julia Carlton of the Division of Legislative Services reviewed the electronic meeting policy (available [here](#)) that was originally proposed in June 2023 and presented at the July 2023 meeting of the Commission. She also noted the House of Delegates' Interim Legislative Meeting Policy, effective April 19, 2023 (available [here](#)), which prohibits members of the House of Delegates from participating by electronic means at any in-person meetings. Members opposed the aspect of the policy that disallows members participating remotely from voting or contributing to the quorum on the grounds that it would disadvantage individuals with disabilities, while members were also concerned with adopting a policy that deviates from what other commissions have adopted and that would potentially negate representation of members of the House of Delegates in light of the House of Delegates' Interim Legislative Meeting Policy. A motion to adopt the policy as presented in June 2023 passed unanimously. Members expressed an interest in looking to develop the policy further in the future to better accommodate individuals with disabilities.

Public Comment

Teresa Champion of the Virginia Autism Project discussed numerous issues that her organization will be pursuing in the upcoming legislative session, including expanding the definition of "medically needy" qualifying expenses as they apply to individuals receiving Medicaid waivers, modifying family life education curriculum for students with disabilities, and reestablishing the Virginia Autism Advisory Council. Jenny Witteborg and other members of the deaf or hard of hearing community explained that there is a need for enhancing interpreter services at committee

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and commission meetings of the General Assembly, in hospitals, and at other locations to improve access. Michelle Long, president of the Virginia Association of the Deaf, discussed her organization's desire for greater representation of the deaf community on the advisory committee created by Virginia's Language Equality and Acquisition for Deaf Kids (LEAD-K) bill [HB 649 (Carr, 2022)/ SB 265 (Hashmi, 2022)].

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Report on the Interim Activity of the Virginia Disability Commission – 2023

November 20, 2023, at 2:00 p.m.

Senate Room 305 / A, General Assembly Building

<http://dls.virginia.gov/commissions/vdc.htm>

The Report on the Interim Activity of the Virginia Disability Commission – 2023 (the Commission) met in Richmond with Senator Barbara A. Favola, chair, presiding.⁴ The meeting included a review of recommendations that were presented to the Commission throughout the 2023 interim (see above). Materials presented at the meeting are accessible through the [Commission's meetings webpage](#). Video recording of the meeting is available [here](#).

For more information, see the [Commission's website](#) or contact the Division of Legislative Services staff:

Julia Carlton, Senior Attorney, DLS
jcarlton@dls.virginia.gov
804-698-1823

Hannah Yates, Attorney, DLS
hyates@dls.virginia.gov
804-698-1873

Trevor Merrion, Senior Associate, DLS
tmerrion@dls.virginia.gov
804-698-1851

⁴ **Members Present:** Senator Barbara A. Favola (chair), Delegate Robert D. Orrock, Sr. (vice-chair), Senator Ghazala F. Hashmi, Delegate Phillip A. Scott, Delegate H. Otto Wachsmann, Jr., Gayl Brunk, Conner Cummings, John Tolleris

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APPENDIX A

TO: Virginia Disability Commission Members

FROM: Senator Barbara Favola, Chair

DATE: June 6, 2023

RE: Virginia Disability Commission Policy on Electronic Meeting Participation and All-Virtual Meetings

§ 2.2-3708.3 of the Code of Virginia allows public bodies to adopt a policy enabling remote, electronic participation by individual members in lieu of attending meetings in person and allowing for all-virtual meetings. Under this provision, the Virginia Disability Commission (the Commission) is considering adopting the policies as stated in this memo.

Electronic Participation by Members during In-Person Meetings

It is the proposed policy of the Commission that individual Commission members may participate in meetings electronically, as permitted by § 2.2-3708.3 of the Code of Virginia, with two exceptions:

1. The Commission will not observe the allowance in statute for any member living more than 60 miles away from the meeting site to attend remotely; and
2. Commission members participating remotely may not make motions or vote or count towards the quorum.

This policy shall apply to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. Members are permitted to participate in meetings electronically under the following three circumstances:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance; or
3. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters for more than two meetings per calendar year (or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater).

Whenever an individual member wishes to participate from a remote location, it is the policy of the Commission that a quorum of the Commission members be physically assembled at the primary or central meeting location.

Furthermore, in order for a Commission member to participate remotely during an in-person meeting of the Commission, the member must notify staff to make the request and staff will then notify the chair. The approval is automatic unless a member's participation would violate FOIA. If such participation is challenged, then the matter will be put to a vote of the Commission members at the meeting. The request and reason for remote participation will be recorded in the summary of the meeting. If a member is participating remotely due to a personal matter, the

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member must provide the nature of the personal matter as required by the statute, but the level of specificity does not need to include personal details.

As long as all of the appropriate procedural requirements are met, a member participating remotely may participate in discussions, join in closed meetings, and otherwise participate in all business of the Commission, except that the member may not make motions or vote. If all procedural requirements are not met, members may monitor the meeting remotely but will not be counted as attending the meeting and may not otherwise fully participate in the meeting.

All-Virtual Meetings

It is the policy of the Commission that the Commission may hold all-virtual public meetings pursuant to subsection C of § 2.2-3708.3 of the Code of Virginia. Such all-virtual public meetings are limited by law to two meetings per calendar year (or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater). Additionally, the Commission may not hold consecutive, all-virtual public meetings.

Whenever the Commission holds an all-virtual public meeting, members and staff must comply with the following statutory requirements:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707 of the Code of Virginia;
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audiovisual technology is available, to see the members of the public body as well;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting are made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;

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8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712 of the Code of Virginia; and

9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting.

10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to these requirements is disapproved because such participation would violate the policy adopted pursuant to subsection D of § 2.2-3708.3, such disapproval shall be recorded in the minutes with specificity.

The policy of the Commission is to not hold votes during all-virtual public meetings. As long as all of the appropriate procedural requirements are met, members may conduct other business of the Commission, including but not limited to receiving staff briefings, hearing public comments, and discussing policy options.

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