

**REPORT OF THE VIRGINIA DEPARTMENT OF
MEDICAL ASSISTANCE SERVICES**

**Status Report: Combine the
Maximum Annual Allowable
Amount for Assistive Technology
and Electronic Home-Based
Support Services (HB1963/SB945)**

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



SENATE DOCUMENT NO. 3

**COMMONWEALTH OF VIRGINIA
RICHMOND
2023**



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

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December 1, 2023

MEMORANDUM

TO: The Honorable Glenn Youngkin
Governor of Virginia

FROM: Cheryl Roberts
Director, Virginia Department of Medical Assistance Services

SUBJECT: Status Report: Combine the Maximum Annual Allowable Amount for Assistive Technology and Electronic Home-Based Support Services (HB1963/SB945)

This report is submitted in compliance with the Virginia Acts of the Assembly – Chapters 701 and 702, which states:

A. The Department of Medical Assistance Services (the Department) shall 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 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.

B. The Department shall (i) add the operational design to the proposed Family and Individual Supports, Community Living, and Building Independence waiver amendments to be submitted to the Centers for Medicare and Medicaid Services to obtain federal approval; (ii) conduct a review of payment methodologies to maintain funding for the proposed changes to the Family and Individual Supports, Community Living, and Building Independence waivers in the future; and (iii) undertake such other actions as many be necessary to implement the provisions of this act. The Department shall report on its activities and progress toward implementing the provisions of this act to the Governor and the General Assembly by December 1, 2023.

Should you have any questions or need additional information, please feel free to contact me at 804-664-2660.

CR/wf
Enclosure

Pc: The Honorable John Littel, Secretary of Health and Human Re

Status Report: Combine the Maximum Annual Allowable Amount for Assistive Technology and Electronic Home-Based Support Services (HB1963/SB945)

A Report to the Virginia General Assembly

December 1, 2023

Report Mandate:

Chapters 701 & 702 Acts of Assembly of 2023:

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B. The Department shall (i) add the operational design to the proposed Family and Individual Supports, Community Living, and Building Independence waiver amendments to be submitted to the Centers for Medicare and Medicaid Services to obtain federal approval; (ii) conduct a review of payment methodologies to maintain funding for the proposed changes to the Family and Individual Supports, Community Living, and Building Independence waivers in the future; and (iii) undertake such other actions as many be necessary to implement the provisions of this act. The Department shall report on its activities and progress toward implementing the provisions of this act to the Governor and the General Assembly by December 1, 2023.

Background

HB1963 directed DMAS to amend the Family and Individual Supports (FIS), Community Living (CL), and Building Independence (BI) waivers and implement regulations to combine the maximum annual allowable amount for assistive technology (AT) and electronic home-based support services (EHBS) for an individual receiving Developmental Disability (DD) waiver services. This would allow for a combined budget of \$10,000 in a 12-month period.

Contingent on CMS approval, this will enhance the capability for individuals utilizing DD Waiver services to receive necessary but potentially expensive items and services. This change will necessitate waiver amendments, updates to provider manuals, updates to regulations, and changes in the Medicaid Enterprise system (MES).

About DMAS and Medicaid

The mission of the Virginia Medicaid agency is to improve the health and well-being of Virginians through access to high-quality health care coverage.

The Department of Medical Assistance Services (DMAS) administers Virginia's Medicaid and CHIP programs for over 2 million Virginians. Members have access to primary and specialty health services, inpatient care, dental, behavioral health as well as addiction and recovery treatment services. In addition, Medicaid long-term services and supports enable thousands of Virginians to remain in their homes or to access residential and nursing home care.

Medicaid members historically have included children, pregnant women, parents and caretakers, older adults, and individuals with disabilities. In 2019, Virginia expanded the Medicaid eligibility rules to make health care coverage available to more than 600,000 newly eligible, low-income adults.

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

Assistive Technology

AT services are “specialized medical equipment and supplies, including those devices, controls, or appliances, that are medically necessary to enable individuals to increase their ability to perform acts of daily living (ADLs) or to perceive, control, or communicate with the environment in which they live, or which are necessary to their proper functioning. AT devices are expected to be portable.” Each AT item must be recommended and determined appropriate to meet the individual’s needs prior to approval by the Service Authorization contractor. Allowable services under AT, not available under the Virginia State Plan, include specialized medical equipment, ancillary equipment, supplies necessary for life support and adaptive devices, appliances that enable an individual to be more independent, durable or non-durable medical equipment (DME), and equipment and devices that enable an individual to communicate more effectively. Currently, the maximum Medicaid-funded expenditure for AT is \$5,000 per calendar year. Unused portions of the maximum amount are not to be carried over from one year to the next.

Electronic Home-Based Support

EHBS services are “goods and services based on current technology, such as Smart Home®, and includes purchasing electronic devices, software, services, and supplies that allow individuals to use technology in their residences to achieve greater independence and self-determination and reduce the need for staff intervention but that are not otherwise covered through other benefits in the DD Waivers or through the State Plan for Medical Assistance.” Each EHBS request must assist the individual with an identified need in the individual support plan (ISP), prior to approval by the Service Authorization contractor. Allowable services under EHBS includes portable handheld devices used at home or while in the community which supports safety, increased independence, self-determination, community inclusion, and decreases the need for staff supports. EHBS are available to those 18 and older who can use the equipment. Currently, the maximum Medicaid-funded expenditure for EHBS is \$5,000 per ISP year. Unused portions of the maximum amount are not to be carried over from one year to the next.

Progress to Date

In June and July of 2023, DMAS met internally to plan out how to operationalize and assess delivery system changes necessary for implementation. Currently, the EHBS budget is limited to the ISP year while AT is by calendar year. DMAS determined EHBS will need to change to the calendar year so the service is consistent with AT. Electronic home-based support service will need to be updated in the waiver amendment, provider manual, and regulation for EHBS to reflect this change.

To ensure compliance with regulations, DBHDS may need to manually monitor the combined budget for AT/EHBS. Due to complexity, DMAS is unable to set limits on the service in the Medicaid Enterprise System (MES). DMAS is in process of preliminary discussions of application and impact on system with DBHDS as well as the need to monitor the combined budget for AT/EHBS to ensure the service does not exceed \$10k in a calendar year.

For this budget cycle, the 2023 General Assembly did not approve budget language to support the implementation of a combined budget for AT/EHBS. This will require funding for administrative components such as system changes. Funding is also required on an ongoing basis due to the expected increased utilization of AT and EHBS by waiver participants. Additionally, without funding and appropriation act language authorizing the implementation of this item prior to regulations being finalized, the change cannot be implemented until CMS approval and regulatory authority is in place.

In late 2023-early 2024, DMAS will seek federal authority by amending Family and Individual Supports, Community Living, and Building Independence waiver amendments. DMAS established an implementation

team that will handle project management, stakeholder engagement, communication, and network development.

Projected Implementation Status Plan and Timeline

The following timeline is proposed for DMAS to prepare for the waiver applications for FIS, BI, and CL to combine the annual budget caps for assistive technology, electronic home-based support services:

Estimated Date	Readiness Plan Component/Task
September 2023-March 2024	<p>Develop and draft a Medicaid Bulletin and provider manual updates of the new changes.</p> <p>Begin Draft of waiver amendments for FIS, CL, BI in collaboration with stakeholders.</p> <p>Develop draft of training package including FAQ's for stakeholder groups, DBHDS and providers.</p> <p>Engage CMS to determine feasibility for the planned updates.</p> <p>Develop enrollment data, including historical and projected coverage</p>
Spring to early Summer 2024	<p>Draft and submit agency decision package(s) related to the 1915(c) waivers changes to the Department of Planning and Budget (DPB). Decision package will include funding for Administrative costs related to system changes as well as language to allow the changes to be implemented after CMS approval and prior to having regulations in place.</p> <p>Waiver applications and regulations post for 30 days public comment on townhall and Tribal letter submitted for 60-day review.</p> <p>Submit waiver applications to CMS for approval.</p> <p>Receive CMS approval for Waiver Amendments</p> <p>Stakeholder trainings conducted with stakeholders, DBHDS Service Authorization staff, CRC team, and providers virtually and/or in person.</p>
July 2024	<p>Implementation begins for new combined AT/EHBS budget.</p> <p>Updated bulletin and manual posted to MES.</p> <p>Begin process for updating regulations for 12VAC30-122-360. Electronic home-based support service and 12VAC30-122-270. Assistive technology service.</p>
Fall 2024	<p>Assess and monitor implementation of combined budget.</p> <p>Make systems changes as needed.</p>

Appendix

I. DD Waiver

A9279	Electronic-Based Home Supports
T1999 and T5999	Assistive Technology

