COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

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January 31, 2024

MEMORANDUM

TO: The Honorable Louise Lucas
Chair, Senate Finance Committee

The Honorable Luke Torian
Chair, House Appropriations Committee

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

SUBJECT: Annual Report on the Development of Plan for Section 1115 Serious Mental Illness (SMI) Waiver Application

This report is submitted in compliance with Item 304.JJJ. of the 2023 Appropriations Act which states:

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

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

CR/wrf
Enclosure

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

Annual Report on the Development of Plan for Section 1115 Serious Mental Illness Waiver Application

A Report to the Virginia General Assembly *January 31, 2024*

Report Mandate:

Item 304.JJJ. of the 2023 Appropriations Act states "The Department of Medical Assistance Services shall continue working with the Department of Behavioral Health and Developmental Services to complete the actions necessary to qualify to file a Section 1115 waiver application for Serious Mental Illness and/or Serious Emotional Disturbance. The department shall develop such a waiver application at the appropriate time that shall be consistent with the Addiction Treatment and Recovery Services substance abuse waiver program. The department shall develop a plan with a timeline and potential cost savings of such a waiver to the Commonwealth. The department shall provide an update on the status of the waiver by November 1 of each year to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees."

Background

Section 1115 Medicaid demonstration waivers are a way for states to test new approaches in Medicaid that vary from federal requirements. Federal priorities for 1115 demonstration waivers are communicated to states via letters to State Medicaid Directors, and states can also use generic templates to design their own projects for review. In 2018, Centers for Medicare and Medicaid Services (CMS) published a letter for State Medicaid Directors[1] announcing an opportunity for states to apply for demonstration projects under section 1115(a) of the Social Security Act (SSA) to improve care for adults with serious mental illness (SMI) or children with serious emotional disturbance (SED). The letter clarifies a number of strategies supported by CMS allowable in Medicaid currently and describes a new demonstration opportunity. The letter highlighted the following strategies:

- Earlier identification and engagement in treatment (including coordinated specialty care programs for first episode psychosis and improved access to screening and services for mental health services in school settings)
- The integration of behavioral health and physical health care (including the Collaborative Care Model and psychiatry access programs)
- A comprehensive array of community-based services and supports and crisis services (included Certified Community Behavioral Health Clinic (CCBHC) model)
- Improved care coordination and transitions of care (including coverage of Peer Recovery Support Services, leveraging managed care accountability measures, payment incentives and improved data sharing capabilities)
- Increased access to evidence-based services that address social risk factors (housing, employment, education).

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.

[1] Opportunities to Design Innovative Service Delivery Systems for Adults with a Serious Mental Illness or Children with a Serious Emotional Disturbance (medicaid.gov)

The SMI/SED demonstration opportunity allows states receive FFP for services furnished to Medicaid beneficiaries ages 18 to 64 during short-term stays for acute care in psychiatric hospitals or residential treatment settings that qualify as Institutes of Mental Disease (IMD) if those states are also taking action, through these demonstrations, to ensure good quality of care in IMDs and to improve access to community-based services. Currently in Virginia Medicaid, stays in IMDs that are not part of the 1115 substance use disorder (SUD) Demonstration, for up to 15 days, may be covered as an "in lieu of service" (ILOS) provision through managed care contracts.

Engagement with CMS at the time indicated that to seek authority to waive the IMD exclusion for SMI, states need to demonstrate a robust array of behavioral health services to ensure that overly restrictive levels of care were not relied upon due to a lack of community-based options[2]. Thus, since that time, Virginia has focused on expanding community based behavioral health options through the state plan. A total of nine services have been added or enhanced since December 2021, including:

Level of Care	Services Added (Project BRAVO)	Date Added
Intensive Community Based Services- Youth	• Multisystemic Therapy • Functional Family Therapy	12/1/2021
Intensive Community Based Services- Adult	• Assertive Community Treatment	7/1/2021
Intensive Clinic Based Services (Youth and Adult)	• Mental Health Intensive Outpatient Program • Mental Health Partial Hospitalization Program	7/1/2021
Comprehensive Crisis Services	• Mobile Crisis Response • Community Stabilization • 23-hour Observation • Residential Crisis Stabilization	12/1/2021

In addition to enhancing these community based behavioral health services, Virginia also successfully implemented the 1115 SUD demonstration waiver in 2017 and has built a robust continuum of care for community-based SUD and co-occurring treatment services, including the short-term residential stays in IMDs that have statewide lengths of stay less than 30 days. DMAS also implemented a Peer Recovery Support Services benefit in 2017 for individuals with mental health and SUD conditions to help reduce emergency department visits as well as to improve transitions of care. Other efforts to support the improvement of community-based mental health care including carving in the behavioral health services into Medicaid managed care, including the full continuum of SUD treatment services and the majority of behavioral health services with the exception of children's mental health residential treatment and foster care case management. Virginia also requires all newly enrolled providers to have a risk-based screening process as well as established a revalidating screening for existing providers, including participating psychiatric hospitals and residential treatment facilities. Lastly, DMAS has leveraged several programs to enhance data sharing between physical and behavioral health providers including the Emergency Department Care Coordination (EDCC) platform where the managed care organizations get real-time reports from health systems of members who have presented to the emergency room with a behavioral health or SUD event, to be able to engage the member more readily upon discharge. DMAS also implemented a new care management module (CRMS) within the Medicaid Enterprise System. CRMS will allow for multiple data sources to communicate and build reports to identify members in need.

Federal Landscape as of June 2023[3]

As of June 5, 2023, there were 67 1115 waivers approved across 48 states (on all topics). Eleven states had a federally approved 1115 waiver of the IMD exclusion for SMI (AL, DC, ID, IN, MD, NH, NM, OK, UT, VT, WA) and six states had one that was pending (MA, NJ, NY, OR, WA, WV). This is in comparison to 35 states with approved 1115 waivers (waiving IMD exclusion) for SUD with five additional states pending.

Innovative programs appropriate for implementation via 1115 waiver authority to improve state Medicaid programs for individuals with SMI are not limited to plans to waive the IMD exclusion. Since the 2018 letter to State Medicaid Directors, CMS has published additional guidance regarding 1115 waivers with significant relevance for individuals with SMI and/or youth with SED. Most notably, in 2021, a letter to State Medicaid Directors[4] outlined pathways to addressing social determinants of health (SDOH) within Medicaid, including through 1115 waiver authority. Twenty-three states had an

[2] See initial report from 2022: Annual Report on the Development of Plan for Section 1115 Serious Mental Illness (SMI)Waiver Application – November 1, 2022 (virginia.gov)
[3] Medicaid Waiver Tracker: Approved and Pending Section 1115 Waivers by State | KFF Kaiser Family Foundation maintains a regularly updated tracker of approved and pending waivers; information provided here was accessed via the tracker in June, 2023 to provide a high level view of the federal landscape.
[4] Social Determinants of Health (SDOH) State Health Official (SHO) Letter (medicaid.gov)

approved waiver for behavioral health or other community-based benefits and eight states had a pending waiver. Finally, nineteen states had approved or pending waivers addressing SDOH. Although all nineteen of these approved waivers do not specifically target SMI population, some specifically expand services for SMI population and others require a BH need (more broadly defined), expand services for individuals being discharged from IMDs, or individuals with recurrent ED visits. It is important to note that Virginia's approved 1115 waiver includes ARTS as well as High Needs Supports (HNS; housing and employment), although the HNS component of the waiver has not been funded.

Recommended Next Steps for Virginia

The current 1115 waiver is due for renewal prior to December 2024, with submission to CMS planned for December 2023. A substantial waiver amendment or a new waiver, which would require General Assembly authority to pursue and funding to design and implement, should be considered in the context of the renewal timeline as well as other reform efforts in Virginia's behavioral health system. An 1115 waiver of the IMD exclusion could improve coordination within managed care for individuals ages 18-64 in need of short-term stays in IMDs that are longer than 15 days (for example, 30 or 60 days). It is possible (yet untested) that this would also relieve pressure on the state hospital bed census. The requirement that overall, Length of Stay (LOS) remains below 30 days provides a level of protection against overutilization of restrictive environments. For example, the Virginia SUD 1115 Demonstration evaluation shows the statewide average LOS for SUD residential is 13.03 days (Metric #36 4/1/20 to 3/31/21). Yet, overall, Virginia has articulated a priority to move away from mental health services provided in institutions, particularly for individuals with SMI. Thus, an 1115 waiver opportunity for SMI or SED that expands community-based options or facilitates discharges and community placements from IMDs and other restrictive environments into the community should also be seriously considered. If Virginia were to pursue 1115 waiver authority to expand community-based service options to meet the needs of individuals with SMI, the timeline would depend on the service options being included in the waiver and the design time needed on the front end.

The planning process for the Right Help. Right Now. (RHRN) Plan to transform behavioral health in Virginia is currently being leveraged to consider options for innovations that would enhance services for individuals with SMI/SED. Through the implementation of six interrelated pillars, the RHRN plan aims to improve and expand crisis care, build capacity for community-based services, provide targeted support for SUD and overdose prevention, build the behavioral health workforce, and create innovation within the system. A simplified heuristic of the service continuum being developed through RHRN planning is below.

Per RHRN planning processes and this review of the current federal landscape, a table is provided below outlining key reform components that could be achieved through this waiver opportunity or other mechanisms. Significant aspects of RHRN with impacts on SMI/SED service delivery system that are not represented here include crisis system initiatives and children's mental health initiatives, including school based mental health services.

Cost Savings

Right Help. Right Now. Proposed Approach to 1115 SMI Waiver Demonstration

Strategy #1: Expanding Options for Community Based Care

1.a. State Plan Amendments to Improve Community Psychiatric Rehabilitation Services
1.b. Certified Community Behavioral Health Clinic (CCBHC) Specialty Provider Type
1.c. Coordinated Specialty Care (CSC) for First Episode Psychosis
1.d. Housing and Employment Supports for Adults with SMI
1.e. Community transition, additional crisis services, and medical respite services
1.f. Evaluation of Virginia's need for residential level of care for SMI in Medicaid

Strategy #2: Increasing Quality and Coordination Across Levels of Care and Between Settings

2.a. Reimbursement for acute inpatient services in IMDs up to 60 days
2.b. Standardized Level of Care and Length of Stay Assessment Implementation
2.c. PSH statewide infrastructure integration with waiver benefits
2.d. Improved Care Coordination through Health IT initiatives

This report requires DMAS to describe any analysis of cost savings that may be associated with this waiver opportunity. Any cost savings associated with this waiver are currently unknown. Approval of 1115 waivers is contingent upon demonstrating federal cost neutrality within the overall Medicaid plan. This would not estimate any general fund cost savings. If a study is approved and funded, this analysis would be completed with contractor support during the first two quarters of SFY 2025. A significant concern to the feasibility of pursuing these system improvements via an 1115 waiver is the requirement of cost neutrality in federal Medicaid funding. Although theoretically and for the Commonwealth there would be anticipated cost avoidance across sectors as more Virginians receive the care that they need in integrated, community-based settings, only a portion of those savings would be captured within Medicaid costs (primarily ED visits and inpatient hospitalizations). Additionally, savings to the Commonwealth outside of Medicaid that would be anticipated would only be captured if larger structural changes were ultimately made. Further analysis would be warranted.

Summary

In summary, federal priorities for 1115 waivers to meet the needs of individuals with SMI/SED are currently not limited to waivers of IMD exclusion. Pursuit of 1115 waiver authority to meet the needs of Virginians with SMI should consider components such as implementation of additional evidence-based services, specialty provider types, as well as housing and employment supports. At the time of our last report, the stated plan focused on implementing additional services to build a community-based array of services through the state plan and then pursue 1115 IMD waiver authority once an array was available. Although BRAVO Phase 1 services were implemented, no authority or rate study moved forward in 2022 or 2023, thus, there are not currently additional services coming online. Our most recent consultation with CMS has confirmed that currently there is no barrier to Virginia *applying* for the waiver, but it is clear that whether prior to or within a single innovative package, the focus of the Commonwealth must remain on building community-based supports. Although there could be benefits to a narrowly focused 1115 waiver of the IMD exclusion, such as improved care coordination for Medicaid members when admitted to an IMD and federal match for stays between 15 and 30 or 60 days, there are also significant risks to this approach. The risk is that it would emphasize restrictive settings, and in the context of limited resources, that emphasis might take the focus from the need to build community-based settings and supports for Virginians with SMI. It may also be less likely to be approved by CMS, if an alternate plan (such as state plan services) is not being pursued at the same time to continue building community-based services. As described above, DMAS recommends that the General Assembly consider coordinated state plan amendments to address significant gaps in psychiatric rehabilitation and case management services for adults with SMI to occur alongside any waiver application.

The positives of packaging multiple innovations within an 1115 waiver center around a coordinated timeline to multiple reforms and an ability to evaluate implementation and impact within a comprehensive framework. This is the approach taken with ARTS: within a single demonstration, the services were implemented and the IMD exclusion waiver was achieved.

In closing, we reiterate that building community-based options and innovative plans to improve behavioral health infrastructure and workforce to serve Virginians in their communities should remain the key priority, regardless of the approach taken. Priority should be given to community based innovations and completing the implementation of a robust statewide crisis system, adding additional evidence based services to the state plan and then providing training and workforce development to stand up providers of these services across the Commonwealth, and ensuring that housing and employment supports necessary for people with SMI/SED to thrive in their communities are integrated into the service delivery system.

The Milestones required if Virginia would like to seek this opportunity are provided below.

Date	Milestones
Current through **June** 2024	1. DMAS, DBHDS, and other key partners (e.g., VHHA, DHP, DHCD) would need to work towards a high-level concept paper for the project with stakeholder feedback and communicate this to the General Assembly and engage early with CMS. 2. General Assembly would need to grant DMAS budget authority to engage a contractor to support waiver design and program development, as well as staff positions for waiver design, implementation, and management. 3. General Assembly would also need to grant DMAS, DBHDS, and DHP the regulatory authority to alter state plan services as outlined as an interdependent project in this paper (psychiatric rehabilitation services/community mental health rehabilitative services). 4. General Assembly would need to grant DMAS and DBHDS authority to certify and restructure payments for CCBHCs. 5. Within current resources, DMAS and partner agencies to continue with high level planning for the project, including coordinating a timeline with the re-procurement of health plans (projected start date for new plans, July 2024) and the transition of BH FFS administration to the integrated medical/BH contract (November 1, 2023).
July 2024 through December 2024	1. Contractor engaged for full waiver design, application development, Health IT strategy, and other coordinated components of the project. Benefit design for all waiver services, including eligibility criteria and factors, service components, delivery system, and administration planning. 2. Completion of the required implementation plan 3. Enrollment data analysis, historical and projected coverage, costs, and other background data requirements to support the budget neutrality analysis. 4. Develop required research hypotheses related to the demonstrations' proposed changes, goals and objectives; develop methodological plan for testing hypothesis including evaluation indicators. 5. Assess data system changes necessary for implementation of the 1115 waiver including required analysis of existing services (required for baseline/application) 6. Budget neutrality analysis 7. Public comment periods, public notices, and tribal engagement as required for application.
December 2024	Submit waiver application to CMS
January 2025 through July 2025	1. Legislative approvals to fund and implement waiver and state plan components assessed and decided in 2025 GA. 2. Planning for regulatory changes to support implementation of waiver services and new state plan services, including public comment periods as required. 3. Planning for program manual changes to support project implementation 4. Planning for systems changes and readiness changes required per implementation plan for implementation
July 2025 through October 2025	Pending negotiations, CMS approval of waiver
Go-live through five-year demonstration period	Begin achieving project milestones as outlined in approved implementation plan. Ongoing quarterly reporting