



# COMMONWEALTH of VIRGINIA

## *Department of Medical Assistance Services*

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**September 1, 2024**

### **MEMORANDUM**

**TO:** The Honorable Luke E. Torian  
Chair, House Appropriations Committee

The Honorable Louise L. Lucas  
Chair, Senate Finance and Appropriations Committee

Michael Maul  
Director, Department of Planning and Budget

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

**SUBJECT:** Status of Section 1115 Waiver Application Report

This report is submitted in compliance with the Item 288 XX.2. of the 2024 *Appropriation Act*, which states:

*2. The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, shall continue efforts to qualify for a section 1115 serious mental illness (SMI) waiver. The department is authorized to develop an 1115 SMI waiver application at the appropriate time. In addition to the waiver application, the department shall maintain a plan that includes any proposed service modifications, all potential fiscal implications (including cost savings) and a timeline for implementation. DMAS shall not implement any aspect of this proposed 1115 waiver without direct authorization by the General Assembly. The*

*department shall provide the current version of the waiver plan by September 1 of each year to the Direct, Department of Planning and Budget and 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.

CJR/wrf

Enclosure

Pc: The Honorable Janet V. Kelly, Secretary of Health and Human Resources

# Status of Section 1115 Waiver Application Report

September 2024

## Report Mandate:

Item 288 XX.2. of the 2024 Appropriation Act states: The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, shall continue efforts to qualify for a section 1115 serious mental illness (SMI) waiver. The department is authorized to develop an 1115 SMI waiver application at the appropriate time. In addition to the waiver application, the department shall maintain a plan that includes any proposed service modifications, all potential fiscal implications (including cost savings) and a timeline for implementation. DMAS shall not implement any aspect of this proposed 1115 waiver without direct authorization by the General Assembly. The department shall provide the current version of the waiver plan by September 1 of each year to the Direct, Department of Planning and Budget and 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<sup>1</sup> 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 opportunity can be summarized as follows:

*This SMI/SED demonstration opportunity allows states, upon CMS approval of their demonstrations, to receive Federal Financial Participation (FFP) for services furnished to Medicaid beneficiaries during short term stays for acute care in psychiatric hospitals or residential treatment settings that qualify as IMDs 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.*

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<sup>1</sup> [Opportunities to Design Innovative Service Delivery Systems for Adults with a Serious](#)

[Mental Illness or Children with a Serious Emotional Disturbance \(medicaid.gov\)](#)

Currently in Virginia Medicaid, federal rules prohibit coverage for inpatient stays for individuals who are age 21-64 and in an institution for mental disease (IMD)<sup>2</sup> setting that are not part of the 1115 substance use disorder (SUD) Demonstration. However, federal Managed Care regulations permit an MCO to authorize care in an IMD in lieu of a psychiatric unit of an acute care hospital where the stay is intended to be short-term, i.e., less than 15 days. In addition to inpatient coverage, recent investments in crisis services have elevated interest in some communities for crisis settings with more than 16 crisis beds, which would also require the 1115 waiver to receive Medicaid reimbursement.

To successfully apply for this opportunity, states must demonstrate an array of community-based options. In recent years, Virginia has focused on expanding and developing an evidence-based and trauma-informed continuum of community based behavioral health options through the state plan. A total of nine services have been added or enhanced since December 2021, including:

<b>Level of Care</b>	<b>Services Added (Project BRAVO)</b>	<b>Date Added</b>
Intensive Community Based Services- Youth	<ul style="list-style-type: none"> <li>• Multisystemic Therapy</li> <li>• Functional Family Therapy</li> </ul>	12/1/2021
Intensive Community Based Services- Adult	<ul style="list-style-type: none"> <li>• Assertive Community Treatment</li> </ul>	7/1/2021
Intensive Clinic Based Services (Youth and Adult)	<ul style="list-style-type: none"> <li>• Mental Health Intensive Outpatient Program</li> <li>• Mental Health Partial Hospitalization Program</li> </ul>	7/1/2021
Comprehensive Crisis Services	<ul style="list-style-type: none"> <li>• Mobile Crisis Response</li> <li>• Community Stabilization</li> <li>• 23-hour Observation</li> <li>• Residential Crisis Stabilization</li> </ul>	12/1/2021

In addition to enhancing these community based behavioral health services, Virginia 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

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<sup>2</sup> As defined in Section 1905(i) of the Act, an IMD is any “hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.”

health and SUD conditions to help reduce emergency department visits as well as to improve transitions of care. Most recently, in the 2024 Appropriation Act, DMAS was authorized to redesign legacy community mental health rehabilitative services, including Therapeutic Day Treatment (TDT), Intensive In Home (IIH), Mental Health Skill Building, Psychosocial Rehabilitation, and Case Management for Serious Mental Illness (SMI) and Serious Emotional Disturbance (SED) to be replaced with evidence-based, trauma-informed rehabilitative behavioral health services for youth and adults.

## **Next Steps for Virginia**

DMAS has consulted with CMS and is taking steps to apply for this waiver opportunity in collaboration with DBHDS. Pursuing this opportunity is consistent with the administration's Right Help. Right Now. (RHRN) Plan to transform behavioral health in Virginia. Virginia is submitting the renewal for the current 1115 waiver (ARTS program and former foster care youth) in July 2024. DMAS, in collaboration with DBHDS, is the early steps of designing a program to add to the existing waiver for the SMI opportunity, to include coverage of crisis services in a limited number of IMDs and also short-term inpatient stays in IMDs. The 1115 waiver of the IMD exclusion could improve coordination within managed care for individuals ages 21-64 in need of short-term stays in IMDs (for example, 30 or 60 days). Examples of crisis settings that meet IMD criteria but will be submitted for coverage under the proposed 1115 waiver include co-location child (16 bed) and adult (16 bed) units or co-located detox (already covered above 16 beds for SUD) and adult CSU (16 bed) units.

### **Services Planned for Waiver Application:**

- Coverage of residential crisis stabilization and 23-hour observation in limited IMD settings (co-located adult/child units; co-located detox and adult CSU units)
- Coverage of inpatient treatment up to 30 or 60 days in IMDs for adults ages 21-64

The language that directs this report allows DMAS to take steps towards designing and applying for the 1115 waiver, but General Assembly funding and authority to implement any new waiver programs would be required during the General Assembly 2025 session. The application includes the following components and goals, and the current target is to apply for this waiver by December 2024.

The initial application must include a landscape analysis, general implementation plan and description of the new services to be added and waiver authorities needed to implement, and federal budget neutrality analysis. The application would require 30-day public comment period before submission.

There are five required goals of this demonstration opportunity. Virginia must develop hypotheses, implementation plan, measurement plan, and evaluation plan to meet these goals:

1. *Reduced utilization and lengths of stay in Emergency Departments (EDs) among Medicaid beneficiaries with SMI or SED while awaiting mental health treatment in specialized settings.*
2. *Reduced preventable readmissions to acute care hospitals and residential settings.*
3. *Improved availability of crisis stabilization services including services made available through call centers and mobile crisis units, intensive outpatient services, as well as services provided during acute short-term stays in residential crisis stabilization programs, psychiatric hospitals, and residential treatment settings throughout the state.*
4. *Improved access to community-based services to address the chronic mental health care needs of beneficiaries with SMI or SED including through increased integration of primary and behavioral health care.*
5. *Improved care coordination, especially continuity of care in the community following episodes of acute care in hospitals and residential treatment facilities.*

Between initial application and approval to claim FFP for new services covered under waiver authority, additional steps must be taken, including:

- Assessment of Virginia's readiness to meet 17 milestones and plan to meet each milestone within the first two years of the demonstration.
- Development of a detailed implementation plan.
- Development of a detailed evaluation plan.
- Development of a detailed health IT plan.

### **Potential Fiscal Impact**

The potential fiscal impact, including 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.

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<sup>3</sup> <https://dmas.virginia.gov/data/value-based-purchasing/clinical-efficiencies/>

## Summary

DMAS is pursuing the 1115 waiver authority to meet acute treatment needs of Virginians with SMI by allowing for crisis and inpatient treatment in IMDs, complementing other initiatives to build out a comprehensive continuum of community based behavioral health services. Meeting the extensive milestones required by this opportunity would improve care coordination, data, and evaluation of treatment and outcomes of Medicaid members with SMI. At this time, DMAS aims to submit an initial application to CMS by December 2024. General Assembly funding for the development of the more comprehensive plans (e.g., evaluation plans, health IT plans) would be needed as well as authority to implement and programs that are approved by CMS.

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## 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 approximately two 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.