



COMMONWEALTH of VIRGINIA
Office of the Governor

Vanessa Walker Harris
Secretary of Health and Human Resources

December 13, 2021

Todd McMillion
Director
Department of Health and Human Services
Centers for Medicare and Medicaid Services
233 North Michigan Ave., Suite 600
Chicago, Illinois 60601

Dear Mr. McMillion:

Attached for your review and approval is amendment 21-032, entitled "Personal Care Rate Increase" to the Plan for Medical Assistance for the Commonwealth. I request that your office approve this change as quickly as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Walker Harris".

Vanessa Walker Harris, M.D.

Attachment

cc: Karen Kimsey, Director, Department of Medical Assistance Services

Transmittal Summary

SPA 21-032

I. IDENTIFICATION INFORMATION

Title of Amendment: Personal Care Rate Increase

II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Purpose: This state plan amendment updates the date of the personal care fee schedule on January 1, 2022, in accordance with Item 313.SSSS.3 of the 2021 Appropriations Act. (A corresponding rate increase of 12.5% will be provided for personal care services and for companion and respite services provided under home and community-based waivers, however, the increase is not included in a state plan amendment but via waiver documentation.)

Substance and Analysis: The section of the State Plan that is affected by this amendment is “Methods and Standards for Establishing Payment Rate – Other Types of Care”

Impact: It was not possible to determine a cost for the rate increase for just the personal care services provided through EPSDT. The total expected increase in annual aggregate expenditures from increases in these rates paid for EPSDT and for home and community-based waiver services are \$41,365,521 in general funds, \$155,872 in special funds, and \$42,793,026 in federal funds in federal fiscal year 2022.

Tribal Notice: See Attachments A-1 and A-2.

Prior Public Notice: See Attachment B-1.

Public Comments and Agency Analysis: See Attachments B-2 and B-3. DMAS received eight comments. All comments supported an increase in the personal care rate. DMAS raised the rate for personal care services on 7/1/21, and is raising it again with this SPA. In addition, DMAS has authorized a temporary additional 12.5% rate increase and a \$1000 payment for personal care providers via a Disaster Relief SPA, Appendix K, and preprint documentation that is being submitted to CMS.

Tribal Notice – Increase Personal Care Rate under EPSDT Program

1 message

Lee, Meredith <meredith.lee@dmas.virginia.gov>

Fri, Nov 12, 2021 at 12:44 PM

To: TribalOffice@monacannation.com, chiefannerich@aol.com, jerry.stewart@cit-ed.org, Pamelathompson4@yahoo.com, rappahannocktrib@aol.com, regstew007@gmail.com, Robert Gray <robert.gray@pamunkey.org>, tribaladmin@monacannation.com, samflyingeagle48@yahoo.com, chiefstephenadkins@gmail.com, WFrankAdams@verizon.net, bradbybrown@gmail.com, heather.hendrix@ihs.gov, tabitha.garrett@ihs.gov, Kara.Kearns@ihs.gov

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid Director Karen Kimsey indicating that the Dept. of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services. This SPA will allow DMAS to increase the rate for personal care services under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.


If you would like a copy of the SPA documents or proposed text changes, or if you have any questions, please let us know.

Thank you! -- Meredith Lee

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Meredith Lee
Policy, Regulations, and Manuals Supervisor
Division of Policy, Regulation, and Member Engagement
Department of Medical Assistance Services
600 East Broad Street
Richmond, VA 23219
meredith.lee@dmas.virginia.gov
(804) 371-0552



 **Tribal Notice letter (signed).pdf**
300K



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

KAREN KIMSEY
DIRECTOR

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
800/343-0634 (TDD)
www.dmas.virginia.gov

November 12, 2021

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment related to Personal Care Rate Increase

Dear Tribal Leader and Indian Health Programs:

This letter is to notify you that the Department of Medical Assistance Services (DMAS) is planning to amend the Virginia State Plan for Medical Assistance with the Centers for Medicare and Medicaid Services (CMS). Specifically, DMAS is providing you notice about a State Plan Amendment (SPA) that the Agency will file with CMS in order to increase the rate for personal care services under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.

The tribal comment period for this SPA is open through December 12, 2021. You may submit your comments directly to Meredith Lee, DMAS Policy, Regulation, and Member Engagement Division, by phone (804) 371-0552, or via email: Meredith.Lee@dmas.virginia.gov. Finally, if you prefer regular mail you may send your comments or questions to:

Virginia Department of Medical Assistance Services
Attn: Meredith Lee
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,

A handwritten signature in blue ink that reads "Karen Kimsey".

Karen Kimsey



Agency

Department of Medical Assistance Services

Board

Board of Medical Assistance Services

[Edit Notice](#)

General Notice

Public Notice - Intent to Amend State Plan - Personal Care Rate Increase

Date Posted: 11/12/2021

Expiration Date: 5/12/2022

Submitted to Registrar for publication: YES

[30 Day Comment Forum](#) closed. Began on 11/12/2021 and ended 12/12/2021 [7 comments]

**LEGAL NOTICE
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
NOTICE OF INTENT TO AMEND**

(Pursuant to §1902(a)(13) of the Act (U.S.C. 1396a(a)(13))

THE VIRGINIA STATE PLAN FOR MEDICAL ASSISTANCE

This Notice was posted on November 12, 2021

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the *Methods and Standards for Establishing Payment Rates — Other Types of Care (12 VAC 30-80)*.

This notice is intended to satisfy the requirements of 42 C.F.R. § 447.205 and of § 1902(a)(13) of the *Social Security Act*, 42 U.S.C. § 1396a(a)(13). A copy of this notice is available for public review from Meredith Lee, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, or via e-mail at: Meredith.Lee@dmas.virginia.gov.

DMAS is specifically soliciting input from stakeholders, providers and beneficiaries, on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Meredith Lee and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Town Hall public comment forum attached to this notice.

This notice is available for public review on the Regulatory Town Hall (<https://townhall.virginia.gov>) on the General Notices page, found at: <https://townhall.virginia.gov/L/generalnotice.cfm>.

In accordance with Amendment Item 313 #17c (link [here](#)) DMAS is increasing the rates for agency-directed and consumer-directed personal care services under the Early Periodic Screening, and Diagnosis and Treatment (EPSDT) benefit by 12.5 percent, effective January 1, 2022. (A corresponding rate increase of 12.5% will be provided for these services and for companion and respite services provided under home and community-based waivers, however, the increase is not included in a state plan amendment but via waiver documentation.)

The expected increase in annual aggregate expenditures is \$41,365,521 in state general funds, \$155,872 in special funds and \$42,793,026 in federal funds in federal fiscal year 2022.

Contact Information

Name / Title:	Meredith Lee / <i>Policy, Regulations, and Manuals Supervisor</i>
Address:	600 East Broad Street Richmond, 23219
Email Address:	<u>Meredith.Lee@dmas.virginia.gov</u>
Telephone:	(804)371-0552 FAX: (804)786-1680 TDD: (804)343-0634

This general notice was created by Meredith Lee on 11/12/2021 at 10:29am

This general notice was last modified by Meredith Lee on 11/12/2021 at 10:31am


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Agency

Department of Medical Assistance Services

Board

Board of Medical Assistance Services

7 comments

All good comments for this forum [Show Only Flagged](#)
[Back to List of Comments](#)
Commenter: Wendy Little

12/6/21 3:23 pm

Personal Care Pay Increases - Support

I have not been able to find nor keep for any length of time a care provider for my son who's authorized for a full time care provider/direct support person beyond myself (Mom) even well prior to the pandemic. The pay is/has not been competitive for those in the profession of personal care. Also please make parentally paid care permanent for parents of those with disabilities who qualify for personal/direct care. We are drowning due to lack of assistance and funding, yet do a LOT of overwhelming, but necessary work in many capacities.

CommentID: 116781

Commenter: Mare Thomas

12/6/21 6:19 pm

Supporting Personal Care Pay Increases

I'm far from alone when I say that it is nearly impossible to find, much less keep qualified caregivers due to the low pay. Please pass a responsible increase. Having a child evaluated and approved for benefits is (a TON of work with paperwork, interviews, evaluations and phone calls, etc.) worthless if those benefits (care providers, for one) are inaccessible. If parents have no choice but to provide ALL of the care and ALL of the associated work, we should be paid for doing what we do anyhow, pandemic or not. SO exhausted. Help!

CommentID: 116782

Commenter: Ashley Grant

12/7/21 7:49 am

Supporting attendant pay increase

So many families, so few options- please increase attendant pay so that hiring options reflect increased quality of candidates and overall care.

CommentID: 116783

Commenter: Sara Miller

12/7/21 2:29 pm

Support In-Home and Parent Care Provider Increases!

Most commonly, a Mother is the one who has the vast majority of the responsibility with special needs children and the incredulous work it takes to even have them evaluated for services, plus keeping up with all of that paperwork, multiple agencies, phone calls, meetings, evaluations, providing documentation, and all of the many medical appointments the child needs....We have other children too in many cases, we have no help, and are overwhelmed beyond belief! Increasing attendant pay (and for parents under attendant K, which should be permanent) is the only way to attract quality, qualified people to help care for our children in great need. My circle of friends, we don't even have the capacity to try and help each other out. The pandemic has made everything, impossible. Our children's care does not deserve to suffer, and the Mothers are experiencing tremendous stress and burnout. Please help!

CommentID: 116784

Commenter: J.B. Sellers

12/7/21 3:03 pm

supporting increase in personal care reimbursement rates

As both a parent of individuals with developmental disabilities and a professional in the field providing supports for individuals with developmental disabilities, I have seen firsthand the difficulty families across the Commonwealth are facing as a direct result of low reimbursement rates for waiver services. It is all but impossible to attract and keep competent staff for agency directed or consumer directed services when reimbursement rates for such services are below the wages these individuals could be paid for working unskilled jobs at local food service establishments. Yet we are asking them to provide personal care for individuals with disabilities, who by very definition, are not able to care for themselves alone. In order for individuals with developmental disabilities to remain in their homes and communities, we need to commit to competitive reimbursement rates for personal care (and all HCBS services) that will attract and keep appropriate staff to provide the needed services. I fully support the proposed increase in personal care reimbursement rates.

CommentID: 116785

Commenter: Cat Emerson

12/8/21 11:50 am

Pay Increases for Waiver Providers Please!

We have been without care for nearly 3 years! Why go through the hours and hours necessary incredulous hassles to qualify a child for assisted care if there are no staff to do it? This entire system for children with disabilities is so very broken. Please streamline it. We are under enough stress already with no help. Nobody knew the minimum wage was going up to \$15? The best way to alleviate the lack of help and stress on family caregivers is to continue to pay them (family caregivers) but still, many require additional help like 24 hour care, and we need PEOPLE to help do that. The only way to do that is a competitive wage. Our children deserve it!

CommentID: 116877

Commenter: Angela Green

12/11/21 11:56 pm

Please increase pay for caregivers. To have trust worthy honest people you need to pay decent wage

Do find and keep care givers they need to be paid a decrnt wage.

CommentID: 116936



Lee, Meredith <meredith.lee@dmas.virginia.gov>

Comment in support of increasing pay rates for personal care attendants

1 message

Kate Flinn <katelflinn@gmail.com>
To: Meredith.Lee@dmas.virginia.gov

Tue, Dec 7, 2021 at 8:06 AM

Good morning Ms. Lee,

I am the care attendant for my adult (21 yo) son on the autism spectrum. He has severe social anxiety and finds it almost impossible to interact with others on more than a very cursory level. He also has severe ADHD which impacts his working memory and ability to organize (his thoughts, belongings, and space). As you may imagine, these disorders have impacted almost every area of his daily functioning and he requires assistance with and prompts to do most activities of daily living.

I am very happy to be his care attendant. After 21 years, I know quite well how these deficits affect him and I work with him constantly on strategies to help with organization and life skills such as money and time management, self care, and follow through with tasks (how to get from start to finish to complete a task). It's a lot of work! I do this on top of caring (unpaid) for my elderly homebound mother and my younger child who is also on the autism spectrum (but more mildly impacted). I am commenting in support of an increase in the pay rate for personal care attendants. A raise would be a GREAT help to our struggling family.

Thank you so much!

Sincerely,

Kate Flinn

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE-
OTHER TYPES OF CARE**

16.1 Reimbursement for personal care services for individuals enrolled in the Medicaid Buy-In program described in Attachment 2.6A, Supplement 8a, p 1-3 or for personal care services covered under EPSDT. All governmental and private providers are reimbursed according to the same published fee schedule, located on the Agency's website at the following address: <https://www.dmas.virginia.gov/for-providers/general-information/procedure-fee-files-cpt-codes/> The Agency's rates, based upon one-hour increments, were set as of ~~May 1, 2021~~ **January 1, 2022**, and shall be effective for services on and after that date. Qualifying overtime for consumer-directed personal care provided under EPSDT will be paid 150% of the fee schedule, and qualifying sick leave for consumer –directed personal care provided under EPSDT will be at 100% of the fee schedule.

16.2. Private duty nursing services covered under EPSDT as defined per Supplement 1 to Attachment 3.1A&B, page 6.4.8, with provider qualifications on page 6.4.8, are reimbursed based on a 15-minute unit of service in accordance with the State Agency fee schedule. The fee schedule is the same for both governmental and private providers and was set as of August 8, 2021 and shall be effective for services provided on and after that date. The state agency fee schedule is published on the DMAS website at <https://www.dmas.virginia.gov/for-providers/general-information/procedure-fee-files-cpt-codes/>

16.3 Medical Supplies, Equipment and Appliances (assistive technology) covered under EPSDT, as defined per Supplement 1 to Attachment 3.1 A&B, page 6.4.9, with provider qualifications on page 6.4.10. The service shall be reimbursed based upon the total cost of all AT incurred by the provider.

16.4 Reserved.

16.5 Hospice services, as defined per Attachment 3.1 A&B, Supplement 1, pages 33-37. Hospice services payments are effective October 1 annually and are equivalent to the annual Medicaid hospice rates published by CMS. As of July 1, 2019, room and board will be reimbursed at a rate equal to 100 percent of the skilled nursing facility rate for Medicaid members receiving hospice services who reside in a nursing facility. Hospice services shall be paid according to the location of the service delivery and not the location of the Agency's home office. Payments to a hospice for inpatient care are limited according to the number of days of inpatient care furnished to Medicaid members. During the twelve (12) month period beginning October 1 of each year and ending September 30 of the next year, the aggregate number of inpatient days (both general inpatient days and inpatient respite care days) for any given hospice provider may not exceed twenty percent (20%) of the total number of days of hospice care provided to all Medicaid members during the same period.

Services that are included in the hospice reimbursement are: (a) Routine Home Care where most hospice care is provided - Days 1- 60; (b) Routine Home Care where most hospice care is provided-Days 61 and over; (c) Continuous Home Care; (d) Hospice Inpatient Respite Care; (e) Hospice General Inpatient Care; (f) Service Intensity Add-On (SIA) will be made for a visit by a social worker or a registered nurse (RN), when provided during routine home care provided in the last 7 days of a Medicaid member's life. The SIA payment is in addition to the routine home care rate. The SIA Medicaid reimbursement will be equal to the Continuous Home Care hourly payment rate (as calculated annually by CMS), multiplied by the amount of direct patient care hours provided by an RN or social worker for up to four (4) hours total that occurred on the day of service, and adjusted by the appropriate hospice wage index published by CMS.

16.3.1 Effective July 1, 2019, the telehealth originating site facility fee shall be set at 100 percent of the Medicare rate and shall reflect changes annually based on any changes in the Medicare rate.

TN No. 21-028

Approval Date _____

Effective Date 8-8-21

Supersedes

TN No. 21-003

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX

XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY _____ \$ _____
b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:
Secretary of Health and Human Resources

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME

13. TITLE

14. DATE SUBMITTED

15. RETURN TO

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE-
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16.3.1 Effective July 1, 2019, the telehealth originating site facility fee shall be set at 100 percent of the Medicare rate and shall reflect changes annually based on any changes in the Medicare rate.

TN No. 21-032

Approval Date _____

Effective Date 1-1-21

Supersedes

TN No. 21-028