



COMMONWEALTH of VIRGINIA

Office of the Governor

John E. Littel
Secretary of Health and Human Resources

May 13, 2022

Francis McCullough, Associate Regional Administrator
Centers for Medicare & Medicaid Services
801 Market Street, Suite 9400
Philadelphia, PA 19107-3134

Dear Mr. McCullough:

Attached for your review and approval is amendment 22-006, entitled "COVID Vaccines, Testing, and Treatment" 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 "John E. Littel".

John E. Littel

Attachment

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

Transmittal Summary

SPA 22-006

I. IDENTIFICATION INFORMATION

Title of Amendment: COVID Vaccines, Testing, and Treatment

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 adds new sections to the State Plan for Medical Assistance that affirm that DMAS is in compliance with federal statutes and regulations related to coverage of COVID vaccines, testing, and treatment.

Substance and Analysis: The new sections of the State Plan are Attachments 7.7-A, 7.7-B, and 7.7-C.

Impact: The expected increase in annual aggregate expenditures resulting from the costs of COVID vaccines is \$95,268 in federal funds in federal fiscal year 2022. The expected increase in annual aggregate expenditures resulting from the costs of COVID testing and treatment is \$3,128,788 in state general funds, \$1,520,662 in special funds, and \$16,772,409 in federal funds in federal fiscal year 2022.

Tribal Notice: Please see attached.

Prior Public Notice: Please see attached.

Public Comments and Agency Analysis: Please see attached.



Agency

Department of Medical Assistance Services

Board

Board of Medical Assistance Services

[Edit Notice](#)

General Notice

Public Notice - Intent to Amend State Plan - COVID vaccines, testing, and treatment

Date Posted: 4/12/2022

Expiration Date: 5/12/2022

Submitted to Registrar for publication: YES

[30 Day Comment Forum](#) is underway. Began on 4/12/2022 and will end on 5/12/2022

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 April 12, 2022

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 Emily McClellan, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, or via e-mail at: Emily.McClellan@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 Emily McClellan 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>

DMAS will be making the following changes:

Methods & Standards for Establishing Payment Rates-Other Types of Care (12 VAC 30-80)

The state plan is being revised to affirm compliance with federal statutes and regulations related to COVID vaccines, testing, and treatment.

The expected increase in annual aggregate expenditures resulting from the costs of COVID vaccines is \$95,268 in federal funds in federal fiscal year 2022.

The expected increase in annual aggregate expenditures resulting from the costs of COVID testing and treatment is \$3,128,788 in state general funds, \$1,520,662 in special funds, and \$16,772,409 in federal funds in federal fiscal year 2022.

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Contact Information

Name / Title:	Emily McClellan / <i>Regulatory Manager</i>
Address:	Division of Policy and Research 600 E. Broad St., Suite 1300 Richmond, 23219
Email Address:	Emily.McClellan@dmas.virginia.gov
Telephone:	(804)371-4300 FAX: (804)786-1680 TDD: (800)343-0634

This general notice was created by Emily McClellan on 04/12/2022 at 7:41am



Public comment forums

Make your voice heard! Public comment forums allow all Virginia's citizens to participate in making and changing our state regulations.

[See our public comment policy](#)

Currently showing **1** comment forums closed within the last 1 days for the Department of Medical Assistance Services.

[Recently closed](#)
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Regulatory Activity Forums (1)

[Guidance Document Forums \(0\)](#)

[Actions \(0\)](#)
 [Periodic Reviews \(0\)](#)
 [Petitions for Rulemaking \(0\)](#)
 [General Notices \(1\)](#)

Board of Medical Assistance Services

<p>View Comments</p>	<p>Public Notice - Intent to Amend State Plan - COVID vaccines, testing, and treatment</p>	<p>General Notice Public Notice - Intent to Amend State Plan - COVID vaccines, testing, and treatment</p>
<p>Closed: 5/12/22 0 comments</p>		

Tribal Notice - Virginia Compliance with Federal Rules for COVID Vaccines, Testing, and Treatment

McClellan, Emily <emily.mcclellan@dmas.virginia.gov> Tue, Apr 12, 2022 at 7:32 AM
To: TribalOffice@monacannation.com, "chiefannerich@aol.com" <chiefannerich@aol.com>, jerry.stewart@cit-ed.org, Pam Thompson <Pamelathompson4@yahoo.com>, rappahannocktrib@aol.com, regstew007@gmail.com, robert.gray@pamunkey.org, Rufus Elliott <tribaladmin@monacannation.com>, Samuel Bass <samflyingeagle48@yahoo.com>, Stephen Adkins <chiefstephenadkins@gmail.com>, Frank <WFrankAdams@verizon.net>, "bradbybrown@gmail.com" <bradbybrown@gmail.com>, heather.hendrix@ihs.gov, "Garrett, Tabitha (IHS/NAS/RIC)" <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 about a State Plan Amendment that CMS is requiring states to submit to affirm compliance with federal statutes and regulations related to COVID vaccines, testing, and treatment.

Please let us know if you have any questions.

Thank you! -- Emily McClellan

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Emily McClellan
Policy, Regulation, and Member Engagement Division Director
Virginia Department of Medical Assistance Services
600 East Broad Street
Richmond, VA 23219
(804) 371-4300
www.dmas.virginia.gov



 **Tribal Notice letter (signed).pdf**
342K



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

April 12, 2022

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment affirming Virginia Medicaid Coverage of COVID vaccines, testing, and treatment

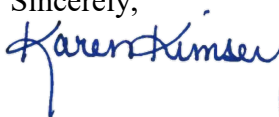
Dear Tribal Leader and Indian Health Programs:

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). CMS has asked all states to submit a State Plan Amendment (SPA) to affirm that they are in compliance with federal statutes and regulations related to COVID vaccines, testing, and treatment. DMAS is providing you notice that it will file a SPA with CMS to assure that it complies with federal requirements related to COVID vaccines, testing, and treatment.

The tribal comment period for this SPA is open through May 12, 2022. You may submit your comments directly to Emily McClellan, DMAS Policy, Regulation, and Member Engagement Division, by phone (804) 371-4300, or via email: Emily.McClellan@dmas.virginia.gov. Finally, if you prefer regular mail you may send your comments or questions to:

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

Please forward this information to any interested party.

Sincerely,

Karen Kimsey

Medicaid Section 1135 Waiver of SPA Submission Requirements Template

A state or territory may request a Section 1135 SPA process waiver(s) if the President has declared a major disaster or an emergency under the Stafford Act, or an emergency under the National Emergencies Act, and the Secretary of the Department of Health and Human Services has declared a public health emergency. The Centers for Medicare and Medicaid Services (CMS) will review the state's request to determine whether the section 1135 waiver request will help the state or territory ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the Medicaid program.

Note: State Medicaid Agencies must request separate section 1135 waiver authority for each Emergency Relief SPA submitted. Agencies may not request section 1135 waiver authority for a SPA that includes any changes that restrict or limit payment, services, or eligibility, or otherwise burden beneficiaries and providers.

State: Virginia
SPA Number: 22-006

The agency seeks the following under section 1135(b)(5) of the Social Security Act (check all that apply):

- Submission Deadlines:** Pursuant to section 1135 (b)(5) of the Act, allows modification of the requirement to submit the SPA by the last day of a quarter, in order to obtain a SPA effective date during that quarter (applicable only for quarters in which the emergency or disaster declaration is in effect) - 42 C.F.R. § 430.20

- Public notice requirements:** Pursuant to section 1135 (b)(5) of the Act, allows a modification of public notice requirements that would otherwise be applicable to SPA submissions. These requirements may include those specified in 42 C.F.R. § 440.386 (Alternative Benefit Plans), 42 C.F.R. § 447.57(c) (premiums and cost sharing), and 42 C.F.R. § 447.205 (public notice of changes in statewide methods and standards for setting payment rates). Requested modifications are as follows:

- Tribal Consultation:** Pursuant to section 1135 (b)(5) of the Act, allows modification of the required Tribal consultation timelines specified in the Medicaid state plan per section 1902(a)(73) of the Act. Requested modifications are as follows:

PRA Disclosure Statement Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 75). Public burden for all of the collection of information requirements under this control number is estimated to take up to 1 hour per response.

Vaccine and Vaccine Administration at Section 1905(a)(4)(E) of the Social Security Act

During the period starting March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (the Act):

Coverage

The state assures coverage of COVID-19 vaccines and administration of the vaccines.¹

The state assures that such coverage:

1. Is provided to all eligibility groups covered by the state, including the optional Individuals Eligible for Family Planning Services, Individuals with Tuberculosis, and COVID-19 groups if applicable, with the exception of the Medicare Savings Program groups and the COBRA Continuation Coverage group for which medical assistance consists only of payment of premiums; and
2. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(H) and section 1916A(b)(3)(B)(xii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing or similar charge, pursuant to section 1937(b)(8)(A) of the Act.

The state provides coverage for any medically necessary COVID-19 vaccine counseling for children under the age of 21 pursuant to §§1902(a)(11), 1902(a)(43), and 1905(hh) of the Act.

The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration, with respect to the providers that are considered qualified to prescribe, dispense, administer, deliver and/or distribute COVID-19 vaccines.

Additional Information (Optional):

¹ The vaccine will be claimed under this benefit once the federal government discontinues purchasing the vaccine.

COVID-19 Testing at section 1905(a)(4)(F) of the Social Security Act

During the period starting March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (the Act):

Coverage

X The state assures coverage of COVID-19 testing consistent with the Centers for Disease Control and Prevention (CDC) definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19.

X The state assures that such coverage:

1. Includes all types of FDA authorized COVID-19 tests;
2. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
3. Is provided to the optional COVID-19 group if applicable; and
4. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Please describe any limits on amount, duration or scope of COVID-19 testing consistent with 42 CFR 440.230(b).

Provider Administered Non-Multiplex Antigen/Molecular Tests: Reimbursement for each code will be limited to a maximum of one test code per member per day.

Provider Administered Multiplex Antigen/Molecular Tests: Reimbursement for each code will be made for a maximum of one (1) test per member per day AND when the following criteria are met:

- recommended by a health care provider; AND
- has an FDA Emergency Use Authorization (EUA) or FDA approval at the time the test is administered; AND
- performed by a Clinical Laboratory Improvement Amendments (CLIA)-accredited high-or medium-complexity laboratory; AND
- ordered following non-diagnostic molecular or antigen testing for COVID-19; AND
- used as a method to help establish a diagnosis when patients present with late complications of COVID-19 illness, such as multisystem inflammatory syndrome in children.

Home Tests: Tests will be provided without prior authorization and without requiring a provider prescription, for up to two (2) home COVID-19 tests per day, but no more than eight (8) home COVID-19 tests per rolling 30 days; Service authorization will be required for additional tests in excess of daily or rolling 30- day quantity limits.

X Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):

Reimbursement

The state assures that it has established state plan rates for COVID-19 testing consistent with the CDC definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19.

List references to Medicaid state plan payment methodologies that describe the rates for COVID-19 testing for each applicable Medicaid benefit:

The state is establishing rates for COVID-19 testing pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

The state's rates for COVID-19 testing are consistent with Medicare rates for testing, including any future Medicare updates at the:

Medicare national average, OR

Associated geographically adjusted rate.

The state is establishing a state specific fee schedule for COVID-19 testing pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

The state's rate is as follows and the state's fee schedule is published in the following location :

87426 - 31.09; U0003 - 66.00; U0004 - 66.00; 86769 - 42.13; 86328 - 45.23; 86408 - 37.07; 86409 - 70.06; 86413 - 45.26; 0224U - 37.07;
 0226U - 37.21; 87428 - 55.96; 87636 - 125.51; 87637 - 125.51;
 87811 - 36.41; 0202U - 262.77; 0223U - 262.77; 0225U - 262.77;
 0240U - 125.51; 0241U - 125.51; Home antigen test – up to \$20. Home molecular test – up to \$150. Fee schedule location: <https://www.dmas.virginia.gov/providers/procedure-fee-files-cpt-codes/>

The state's fee schedule is the same for all governmental and private providers.

____ The below listed providers are paid differently from the above rate schedules and payment to these providers for COVID-19 testing is described under the benefit payment methodology applicable to the provider type:

Additional Information (Optional):

____ The payment methodologies for COVID-19 testing for providers listed above are described below:

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COVID-19 Treatment at section 1905(a)(4)(F) of the Social Security Act

During the period starting March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (the Act):

Coverage for the Treatment and Prevention of COVID

The states assures coverage of COVID-19 treatment, including specialized equipment and therapies (including preventive therapies).

The state assures that such coverage:

1. Includes any non-pharmacological item or service described in section 1905(a) of the Act, that is medically necessary for treatment of COVID-19;
2. Includes any drug or biological that is approved (or licensed) by the U.S. Food & Drug Administration (FDA) or authorized by the FDA under an Emergency Use Authorization (EUA) to treat or prevent COVID-19, consistent with the applicable authorizations;
3. Is provided without amount, duration or scope limitations that would otherwise apply when covered for purposes other than treatment or prevention of COVID-19;
4. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
5. Is provided to the optional COVID-19 group, if applicable; and
6. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):

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Coverage for a Condition that May Seriously Complicate the Treatment of COVID

X The state assures coverage of treatment for a condition that may seriously complicate the treatment of COVID-19 during the period when a beneficiary is diagnosed with or is presumed to have COVID-19.

X The state assures that such coverage:

1. Includes items and services, including drugs, that were covered by the state as of March 11, 2021;
2. Is provided without amount, duration or scope limitations that would otherwise apply when covered for other purposes;
3. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
4. Is provided to the optional COVID-19 group, if applicable; and
5. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

X Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

X The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):

Reimbursement

X The state assures that it has established state plan rates for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies).

List references to Medicaid state plan payment methodologies that describe the rates for COVID-19 treatment for each applicable Medicaid benefit:

Hospital (4.19-A), Outpatient (4.19-B pages 4, 4.1, and 7.2.1 et seq), Physician (4.19-B page 4.11), Other Licensed Practitioner (4.19-B pages 6.1 through 6.2.1 and 4.19-B Supp. 4) Pharmacy (4.19-B pages 7.3 et seq), Home health (4.19-B, Supp. 3)

____ The state is establishing rates or fee schedule for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies) pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

____ The state's rates or fee schedule is the same for all governmental and private providers.

____ The below listed providers are paid differently from the above rate schedules and payment to these providers for COVID-19 vaccines and the administration of the vaccines are described under the benefit payment methodology applicable to the provider type:

Additional Information (Optional):

PRA Disclosure Statement Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 75). Public burden for all of the collection of information requirements under this control number is estimated to take up to 1 hour per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

**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

15. RETURN TO

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED

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