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State/Territory Name: Virginia

State Plan Amendment (SPA) #: VA-22-0010

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DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-01-16
Baltimore, MD 21244-1850



Children and Adults Health Programs Group

April 22, 2022

Cindy Olson
Director
Eligibility and Enrollment Services Division
Virginia Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, VA 23219

Dear Ms. Olson:

Your title XXI Children's Health Insurance Program (CHIP) State Plan Amendment (SPA) number VA-22-0010, submitted on April 11, 2022, has been approved. Through this SPA, Virginia has demonstrated compliance with the American Rescue Plan Act of 2021 (ARP). This SPA has an effective date of March 11, 2021 and extends through the last day of the first calendar quarter that begins one year after the last day of the COVID-19 emergency period, as described in section 1135(g)(1)(B) of the Social Security Act (the Act).

Section 9821 of the ARP amended sections 2103(c)(11)(B) and 2103(e)(2) of the Act to mandate coverage of COVID-19 testing, treatment, and vaccines and their administration without cost-sharing or amount, duration, or scope limitations. Sections 2103(c)(11)(B) and 2103(e)(2) of the Act also require states to cover, without cost sharing, the treatment of conditions that may seriously complicate COVID-19 treatment, during the period when a beneficiary is diagnosed with or is presumed to have COVID-19. The state provided the necessary assurances to demonstrate compliance with the ARP in accordance with the requirements of sections 2103(c)(11)(B) and 2103(e)(2) of the Act.

Pursuant to section 1135(b)(5) of the Act, for the period of the public health emergency, CMS is modifying the requirement at 42 C.F.R. 457.65 that the state submit SPAs that are related to the COVID-19 public health emergency by the end of the state fiscal year in which they take effect. CMS is allowing states that submit SPAs after the last day of the state fiscal year to have an effective date in the prior state fiscal year, but no earlier than the effective date of the public health emergency. Virginia requested a waiver to obtain an earlier effective date of March 11, 2021.

Pursuant to section 1135(b)(5) of the Act, CMS is also allowing states to modify the timeframes associated with tribal consultation required under section 2107(e)(1)(f) of the Act, including shortening the number of days before submission or conducting consultation after submission of

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the SPA. Virginia requested a waiver to modify the tribal consultation timeline by completing tribal consultation after the effective date of the SPA.

This letter approves Virginia's request for a March 11, 2021 effective date and provides the state with the authority to modify the tribal consultation timeline.

Your Project Officer is Ticia Jones. She is available to answer your questions concerning this amendment and other CHIP-related matters. Her contact information is as follows:

Centers for Medicare & Medicaid Services
Center for Medicaid and CHIP Services
7500 Security Boulevard, Mail Stop: S2-01-16
Baltimore, MD 21244-1850
Telephone: 410-786-8145
E-mail: Ticia.Jones@cms.hhs.gov

If you have additional questions, please contact Ms. Meg Barry, Director, Division of State Coverage Programs, at (410) 786-1536. We look forward to continuing to work with you and your staff.

Sincerely,

/Signed by Amy
Lutzky/

Amy Lutzky
Deputy Director
On Behalf of Anne Marie Costello, Deputy Director
Center for Medicaid and CHIP Services

cc: Courtney Miller, Director, Medicaid and CHIP Operations Group
Jackie Glaze, Deputy Director, Medicaid and CHIP Operations Group

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Section 1. General Description and Purpose of the State Child Health Plans and State Child Health Plan Requirements

1.1 The state will use funds provided under Title XXI primarily for (Check appropriate box) (Section 2101(a)(1)); (42 CFR 457.70):

1.1.1 Obtaining coverage that meets the requirements for a separate child health program (Sections 2101(a)(1) and 2103); OR

1.1.2 Providing expanded benefits under the State's Medicaid plan (Title XIX) (Section 2101(a)(2)); OR

1.1.3 A combination of both of the above. (Section 2101(a)(2))

Effective 09/01/02.

1.2 Check to provide an assurance that expenditures for child health assistance will not be claimed prior to the time that the State has legislative authority to operate the State plan or plan amendment as approved by CMS. (42 CFR 457.40(d))

1.3 Check to provide an assurance that the State complies with all applicable civil rights requirements, including title VI of the Civil Rights Act of 1964, title II of the Americans with Disabilities Act of 1990, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, 45 CFR part 80, part 84, and part 91, and 28 CFR part 35. (42 CFR 457.130)

Guidance: The effective date as specified below is defined as the date on which the State begins to incur costs to implement its State plan or amendment. (42 CFR 457.65) The implementation date is defined as the date the State begins to provide services; or, the date on which the State puts into practice the new policy described in the State plan or amendment. For example, in a State that has increased eligibility, this is the date on which the State begins to provide coverage to enrollees (and not the date the State begins outreach or accepting applications).

1.4 Provide the effective (date costs begin to be incurred) and implementation (date services begin to be provided) dates for this SPA (42 CFR 457.65). A SPA may only have one effective date, but provisions within the SPA may have different implementation dates that must be after the effective date.

Original Plan Effective Date: 10/26/98; Implementation Date: 10/26/98

Amendment Effective Dates: Amend. 1: 07/01/01. Amend. 2: 12/01/01. Amend. 3: 7/01/01. Amend. 4: 09/01/02. Amend. 5: 08/01/03. Amend. 6: Withdrawn.

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Amend. 7: delete ESHI premium assistance program and exempt pregnant children from waiting period 08/01/05; allow for disease management in fee-for-service program 07/01/06. **Amend. 8:** Changes to the CHIP State Plan to outline coverage of school services and to add language regarding private funding. **Amend. 9:** FAMIS MOMS to 200% FPL and MCO opt in 07/01/09; Medicaid Expansion Immigrants 04/01/09. **Amend. 10:** Translation for Dental Care 07/01/09; Hospice Concurrent with Treatment 03/23/10; Early Intervention and prospective payment for FQHCs and RHCs 10/01/09; Citizenship Documentation 01/01/10; Mental Health Parity and No Cost Sharing for Pregnancy-Related Assistance 07/01/10. **Amend. 11:** Administrative Renewal Process 10/01/10; Virginia Health Care Fund 07/01/10.

Amendment Implementation Dates: Amend. 1: 08/01/01; Amend. 2: 12/01/01; Amend. 3: 12/01/01; Amend. 4: 09/01/02; Amend. 5: 08/01/03; Amend. 6: Withdrawn; Amend. 7: 07/01/06; Amend. 8: 07/01/07, and 02/14/09 implementation date of language regarding the RWJ Grant funding and private funding; Amend. 9: 07/01/09, and Medicaid Expansion Immigrants: 04/01/09; Amend. 10: Translation for Dental Care: 07/01/09; Hospice Concurrent with Treatment: 03/23/10; Early Intervention and prospective payment for FQHCs and RHCs: 10/01/09; Citizenship Documentation: 01/01/10; and Mental Health Parity, No Cost Sharing for Pregnancy-Related Assistance, and Virginia Health Care Fund: 07/01/10. Amend. 11: Administrative Renewal Process: 10/01/10; and Virginia Health Care Fund: 07/01/10. Amend. 12: Discontinue primary care case management: 05/01/12; Expand eligibility under lawfully residing option: 07/01/12; Add coverage for early intervention case management: 10/01/11; and Discontinue Virginia Health Care Fund funding: 07/01/12. Amend. 13: Outreach Procedures 07/01/12; and Performance Plan: 07/01/12. Amend. 14: Delivery system change (Sec. 6 and 12) Behavioral Health Service Administrator: 01/01/14

List continues after table below.

Transmittal Number	SPA Group	PDF	Description	Superseded Plan Section(s)
VA-13-15 Effective/Implementation Date: January 1, 2014	MAGI Eligibility & Methods	CS7	Eligibility – Targeted Low Income Children	Supersedes the current sections Geographic Area 4.1.1; Age 4.1.2; and Income 4.1.3
		CS13	Eligibility - Deemed Newborns	Incorporate under section 4.3

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Transmittal Number	SPA Group	PDF	Description	Superseded Plan Section(s)
VA-14-0020 Effective/Implementation Date: January 1, 2015		CS15	MAGI-Based Income Methodologies	Incorporate within a separate subsection under section 4.3
		CS10	Eligibility – Children Who Have Access to Public Employee Coverage	Supersedes language in regard to dependents of public employees in Section 4.1.9
VA-14-0002 Effective/Implementation Date: January 1, 2014	XXI Medicaid Expansion	CS3	Eligibility for Medicaid Expansion Program	Supersedes the current Medicaid expansion section 4.0
VA-14-0025 Effective/Implementation Date: January 1, 2014	Establish 2101(f) Group	CS14	Children Ineligible for Medicaid as a Result of the Elimination of Income Disregards	Incorporate within subsection 4.4.1
VA-13-0018 Effective/Implementation Date: October 1, 2013	Eligibility Processing	CS24	Eligibility Process	Supersedes the current sections 4.3 and 4.4
VA-13-19 Effective/Implementation Date: January 1, 2014	Non-Financial Eligibility	CS17	Non-Financial Eligibility – Residency	Supersedes the current section 4.1.5
		CS18	Non-Financial – Citizenship	Supersedes the current sections 4.1.0; 4.1.1-LR
		CS19	Non-Financial – Social Security Number	Supersedes the current section 4.1.9
		CS23	Other Eligibility Standards	Supersedes the current section 4,1.6, 4.1.7, 4.1.8, 4.1.9

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Transmittal Number	SPA Group	PDF	Description	Superseded Plan Section(s)
VA-13-19-01 Effective/Implementation Date: July 3, 2014		CS20	Substitution of Coverage	Supersedes the current section 4.4.4
VA-21-0021 Effective/Implementation Date: July 1, 2021	MAGI Eligibility & Methods	CS9	Coverage from Conception to Birth	
	Non-Financial Eligibility	CS27	Continuous Eligibility	

SPA #15

Purpose of SPA: Update for SFY 2015

Effective date: 07/01/14

Implementation dates:

Remove waiting period for eligibility: 07/03/14; Allow eligibility for dependents of state employees: 01/01/15

SPA #16

Purpose of SPA: Update for SFY 2016

Effective date: 07/01/15

Implementation date:

Benefits - add Behavioral Therapy services: 07/01/16

SPA #17

Purpose of SPA: Temporary Adjustments to Enrollment and Redetermination for Individuals Living or Working in a Declared Disaster Area at the Time of a Disaster Event.

Effective date and implementation date: 01/01/17

SPA #VA-17-0012

Purpose of SPA: Update for SFY 2017

Effective date: 7/1/16

SUD amendments (not including peer supports) have an implementation date of 04/01/17.

All other items (including peer supports) have an implementation date of 07/01/17.

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SPA #VA-18-0012

**Purpose of SPA: Compliance with Mental Health Parity and Addiction Equity Act - Effective and implementation date 07/01/17;
Removal of Outpatient Behavioral Health Co-payments – Effective and implementation date: 07/01/19**

SPA #VA-19-0010

**Purpose of SPA: Update for SFY 2019; Managed Care Final Rule Compliance Assurances; Technical Updates
Effective and implementation date: 07/01/18**

SPA #VA-20-0001

**Purpose of SPA: CHIP Disaster Relief – Temporary Waiver of Co-payments; Flexibilities Related to Processing and Renewal Requirements for State or Federally Declared Disaster Area
Effective date: 01/01/2020
Implementation date: 03/12/2020**

SPA #VA-20-0015 -- PENDING

**Purpose of SPA: Update for SFY2020; SUPPORT Act Section 5022 Compliance
Proposed effective and implementation date: 10/24/19**

SPA #VA-21-0010

**Purpose of SPA: Health Services Initiative – Poison Control Centers
Effective and implementation date: 7/1/21**

SPA #VA-21-0027

**Purpose of SPA: Extend coverage for unborn children whose mothers are uninsured pregnant women up to 200% FPL not otherwise eligible for Medicaid, FAMIS MOMS, or FAMIS, regardless of immigration status requirements; Fund a Health Services Initiative to provide fee-for-service health services up to 60 days postpartum to mothers covered under the unborn child option, called FAMIS Prenatal.
Effective and implementation date: 07/01/21**

SPA #VA-22-0010

Purpose of SPA: The purpose of this SPA is to demonstrate compliance with the American Rescue Plan Act provisions that require states to cover treatment (including treatment of a condition that may seriously complicate COVID-19 treatment), testing, and vaccinations for COVID-19 without cost sharing in CHIP.

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Proposed effective date: March 11, 2021

Proposed implementation date: March 11, 2021

- 1.4- TC** Tribal Consultation (Section 2107(e)(1)(C)) Describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment, when it occurred and who was involved.

On March 9, 2022, a Tribal notification letter was sent to representatives of each of Virginia's seven federally recognized American Indian Tribes, as well as to contacts at the Indian Health Program (IHP) office, describing the provisions of CHIP SPA #VA-22-0010 and notifying Tribal and IHP leadership of a 30-day Tribal comment period. Tribal members and IHP contacts were invited to provide input on the SPA, and contact information was provided for submitting any comments to DMAS. Virginia does not anticipate that this SPA will have a direct impact on the Tribes or IHP. Because this CHIP SPA took effect during the prior state fiscal year, DMAS is submitting a request for a waiver under section 1135 of the Act to modify the Tribal consultation process for this SPA.

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- 6.2.26. Enabling services (such as transportation, translation, and outreach services (Section 2110(a)(27))
- 6.2.27. Any other health care services or items specified by the Secretary and not included under this section (Section 2110(a)(28))

Enhanced Services Provided Beyond Secretary-approved coverage modeled after the state employee plan:

The services described above are the services included in the Key Advantage State Employee Benefit Package in effect in June 2000. FAMIS Secretary-approved coverage modeled after the state employee plan will include all of the Key Advantage benefits plus the additional benefits listed below:

1. **Well-child care from age 6 through 18 including visits, laboratory services as recommended by the American Academy of Pediatrics Advisory Committee, and any immunizations as recommended by the Advisory Committee on Immunization Practice (ACIP). (Well-child care from birth through age 5 is covered under Key Advantage.)**
2. **The following services for special education students, when provided in a school setting pursuant to a student's Individualized Education Program (IEP), are covered under this State Plan: physical therapy, occupational therapy, and speech-language therapy; audiology; skilled nursing; psychiatric and psychological services; personal care; medical evaluations; and specialized transportation. Assessments are covered as necessary to determine special education and related services needed in the IEP. The Department of Medical Assistance Services (DMAS) reimburses Local Education Agencies (LEAs) directly for services provided pursuant to the IEP.**
3. **Blood lead testing.**

Effective March 11, 2021 and through the last day of the first calendar quarter that begins one year after the last day of the COVID-19 emergency period described in section 1135(g)(1)(B) of the Act, and for all populations covered in the CHIP state child

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health plan:

COVID-19 Vaccine:

- **The state provides coverage of COVID-19 vaccines and their administration, in accordance with the requirements of section 2103(c)(11)(A) of the Act.**

COVID-19 Testing:

- **The state provides coverage of COVID-19 testing, in accordance with the requirements of section 2103(c)(11)(B) of the Act.**
- **The state assures that coverage of COVID-19 testing is 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.**
- **The state assures that coverage includes all types of FDA authorized COVID-19 tests.**

COVID-19 Treatment:

- **The state assures that the following coverage of treatments for COVID-19 are provided without amount, duration, or scope limitations, in accordance with requirements of section 2103(c)(11)(B) of the Act:**
 - **The state provides coverage of treatments for COVID-19 including specialized equipment and therapies (including preventive therapies);**
 - **The state provides coverage of any non-pharmacological item or service described in section 2110(a) of the Act, that is medically necessary for treatment of COVID-19; and**
 - **The state provides coverage of 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.**

Coverage for a Condition That May Seriously Complicate the Treatment of COVID-19:

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- **The state provides coverage for treatment of a condition that may seriously complicate COVID-19 treatment without amount, duration, or scope limitations, during the period when a beneficiary is diagnosed with or is presumed to have COVID-19, in accordance with the requirements of section 2103(c)(11)(B) of the Act.**

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None.

8.2.3. Coinsurance or copayments:

Co-payments shall not be imposed on any of the children covered under the Secretary-approved coverage offered through fee-for-service.

In Secretary-approved coverage modeled after the state employee plan, no co-payments are required for well-baby and well-child and other preventive services. Effective 7/1/10, no co-payments are required for pregnancy-related services. Effective 7/1/19, no co-payments are required for outpatient mental health and substance use disorder services.

In the event of a federally declared or Governor-declared disaster and at the Commonwealth’s discretion, the Commonwealth may temporarily waive co-payments for FAMIS beneficiaries who reside and/or work in the State or federally declared disaster area.

Copayments for Secretary-approved coverage modeled after the state employee plan are:

Description of Service	≤ 150% FPL	> 150% FPL
Outpatient	\$2 per visit	\$5 per visit
Prescription Drugs	\$2 per prescription	\$5 per prescription
Inpatient	\$15 per admission	\$25 per admission
Non-Emergency use of Emergency Room	\$10 per visit	\$25 per visit
Poverty Levels	≤ 150% FPL	> 150% FPL
Maximum Yearly Co-Payment Limit Per Family	\$180	\$350

Income levels are provided as a percentage of Federal Poverty Level (FPL) based on gross income.

Total cost-sharing for each year (or 12-month eligibility period) is limited to: (1) for a family with an annual income equal to or less than 150% of the FPL, the lesser of (a) 2.5% of a family’s income, and (b) \$180.00; and (2) for a family with an annual income greater than 150% of the FPL, the lesser of (a) 5% of a family’s income, and (b) \$350.00.

The co-payment and coinsurance maximums are set at thresholds that are

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well below the maximum allowable per CMS for families with annual incomes equal to or below 150% of FPL and for those with annual incomes above 150% of FPL. The maximum yearly co-payment limit for families in FAMIS with annual incomes at or below 150% FPL is \$180.00 per year. Families enrolled in FAMIS and receiving benefits through FAMIS contracted health plans are advised of the amount of maximum allowable cost-sharing that they may be responsible for during the year. Families are required to submit documentation to DMAS or its contractor, showing that the co-payment cap is met for the year. Once the cap is met, DMAS or its contractor will issue a new card excluding families from paying additional co-pays.

Enrollees are not held liable for any additional costs, beyond the standard co-payment amount, for emergency services furnished outside of the individual's managed care network. Only one co-payment charge is imposed for a single office visit.

The proposed cost sharing caps to be applied toward copayments and/or coinsurance (\$180 and \$350) were included in the Plan document.

No cost-sharing will be charged to American Indians and Alaska Natives.

Effective March 11, 2021 and through the last day of the first calendar quarter that begins one year after the last day of the COVID-19 emergency period described in section 1135(g)(1)(B) of the Act, and for all populations covered in the CHIP state child health plan, the state assures the following:

COVID-19 Vaccine:

- The state provides coverage of COVID-19 vaccines and their administration without cost sharing, in accordance with the requirements of section 2103(c)(11)(A) and 2013(e)(2) of the Act.

COVID-19 Testing:

- The state provides coverage of COVID-19 testing without cost sharing, in accordance with the requirements of section 2103(c)(11)(B) and 2103(e)(2) of the Act.

COVID-19 Treatment:

- The state provides coverage of COVID-19-related treatments without cost sharing, in accordance with the requirements of section 2103(c)(11)(B) and 2103(e)(2) of the Act.

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Coverage for a Condition That May Seriously Complicate the Treatment of COVID-19:

- **The state provides coverage for treatment of a condition that may seriously complicate COVID-19 treatment without cost sharing, during the period when a beneficiary is diagnosed with or is presumed to have COVID-19, in accordance with the requirements of section 2103(c)(11)(B) and 2103(e)(2) of the Act. This coverage includes items and services, including drugs, that were covered by the state as of March 11, 2021.**

8.2.4. Other

None.

- 8.3.** Describe how the public will be notified, including the public schedule, of this cost-sharing (including the cumulative maximum) and changes to these amounts and any differences based on income. (Section 2103(e)((1)(A)) (42 CFR 457.505(b))

The public is notified of FAMIS' cost-sharing requirements, including differences based on income and plans, in the outreach and enrollment materials including:

- **The DMAS and Cover Virginia websites;**
- **FAMIS Member Handbook;**
- **Managed care organization member handbooks; and**
- **Outreach grantees.**
- **The public also has the opportunity to become involved during the regulatory process. Implementing regulations must go through a mandatory 60-day comment period consistent with the Code of Virginia.**
- **The Children's Health Insurance Program Advisory Committee (CHIPAC) provides an opportunity for public education and input.**

Effective April 15, 2002, Virginia temporarily suspended premiums until further notice. FAMIS families were notified by letter, informing them of the suspension of premiums and copies of such letters were posted on the DMAS web site.

Effective September 1, 2002, the FAMIS program no longer charges premiums.

Guidance: The State should be able to demonstrate upon request its rationale and justification regarding these assurances. This section also addresses limitations on payments for certain expenditures and requirements for maintenance of effort.