

**SMD# 22-002**  
**RE: Updated Reporting Requirements**  
**and Extension of Deadline to Fully**  
**Expend State Funds Under American**  
**Rescue Plan Act of 2021 Section 9817**

June 3, 2022

Dear State Medicaid Director:

Section 9817 of the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2) provides qualifying states with a temporary 10 percentage point increase to the federal medical assistance percentage (FMAP) for certain Medicaid expenditures for home and community-based services (HCBS) provided between April 1, 2021, and March 31, 2022. Under ARP section 9817, states must use the federal funds attributable to the increased FMAP to supplement, not supplant, existing state funds expended for Medicaid HCBS in effect as of April 1, 2021. Additionally, states must use state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement the implementation of one or more activities to enhance, expand, or strengthen HCBS under the Medicaid program. The Centers for Medicare & Medicaid Services (CMS) is issuing this addendum to existing guidance to provide states with increased flexibilities in the implementation of this important provision.

**Background**

On May 13, 2021, CMS released [SMD # 21-003](#) to provide guidance to states on the implementation of section 9817 of the ARP. As discussed in SMD # 21-003, states are permitted to use state funds equivalent to the amount of federal funds attributable to the increased FMAP through March 31, 2024, on activities aligned with the goals of section 9817 of the ARP. Further, SMD # 21-003 indicated that CMS expects states to demonstrate compliance with section 9817 of the ARP, beginning April 1, 2021, and until state funds equivalent to the amount of federal funds attributable to the increased FMAP are fully expended.

Among the requirements that states are expected to comply with is that participating states must submit quarterly HCBS spending plans and narratives to CMS on the activities the state has implemented and/or intends to implement to enhance, expand, or strengthen HCBS under the Medicaid program. As discussed in SMD # 21-003, the HCBS spending plan should estimate, by quarter and in total, the amount of funds attributable to the increase in FMAP that the state has claimed and/or anticipates claiming between April 1, 2021, and March 31, 2022, as well as anticipated and/or actual expenditures for the state's activities to implement, to enhance, expand, or strengthen HCBS under the state Medicaid program between April 1, 2021, and March 31, 2024. The HCBS spending narrative is intended to provide information and updates on the state's required ARP section 9817 activities, the connection between the spending plan and the

scope of the activities, and how the state intends to sustain these activities. CMS publicly posts state's spending plans and narratives on [Medicaid.gov](https://www.medicaid.gov).

### **Updated Reporting Requirements**

Effective immediately, states are only required to submit an HCBS spending narrative semi-annually (every other quarter), rather than quarterly. HCBS spending narratives are now due 75 days before the start of every other federal fiscal quarter, beginning with the federal fiscal quarter that starts on April 1, 2022 (federal fiscal year (FY) 2022 quarter (Q) 3), and until the state's funds in an amount equivalent to the enhanced FMAP received by the state have been expended; states are no longer required to submit an HCBS spending narrative for the quarter that starts on July 1, 2022 (FY 2022 Q4). The next HCBS spending narrative will be due 75 days before the quarter beginning October, 1, 2022 (FY 2023 Q1). Please note the frequency for submitting the HCBS spending plan is not changing. States must continue to submit an HCBS spending plan 75 days prior to the beginning of each federal fiscal quarter until the state's funds in an amount equivalent to the enhanced FMAP received by the state have been expended. This change to the reporting frequency for HCBS spending narratives is intended to reduce state reporting burden, while ensuring that CMS continues to receive timely and up-to-date information on the amount of funds attributable to the increase in FMAP that states have claimed and on state expenditures for activities to enhance, expand, or strengthen HCBS under the state Medicaid program.

Please note that, although states are no longer required to submit an HCBS spending narrative quarterly, states have the option to submit an updated narrative quarterly, which would be necessary to request approval for new activities or changes to the scope or description of their approved activities.

As discussed in SMD # 21-003, CMS recognizes the importance of effective stakeholder engagement processes that can provide states with varied perspectives on how to expand, enhance, and strengthen HCBS. CMS encourages states to continue engaging a broad community of stakeholders—Medicaid and other state agency leadership, participants in HCBS programs, residents in long-term care facilities, HCBS providers, family members and other caregivers, the aging and disability network, health plans, and the direct support workforce—to provide insight, ideas, and feedback to inform the state's approach to developing and implementing activities under section 9817 of the ARP. Further, CMS continues to expect that states will offer, in good faith, in a prudent manner, and in compliance with Medicaid benefit requirements, a public notice process, including tribal consultation as applicable, when implementing changes to their HCBS programs.

### **Extension of Deadline to Fully Expend State Funds**

CMS is also announcing that the agency will not require states to demonstrate compliance with the March 31, 2024, deadline for states to use the state funds equivalent to the amount of federal funds attributable to the increased FMAP, which was specified in SMD # 21-003. Instead, CMS expects states to use the state funds equivalent to the amount of federal funds attributable to the increased FMAP by March 31, 2025. This additional flexibility is intended to address state statutory, regulatory, administrative, and other challenges identified by states with meeting the

March 31, 2024, deadline included in SMD # 21-003. CMS recognizes that the complexity of federal and state mechanisms to award funding made available under section 9817 of the ARP have made it difficult for states to implement approved activities in HCBS spending plans in order to expend state funds timely. Please note that states are not required to use this additional flexibility for expending the funds. Rather, states can fully expend state funds equivalent to the amount of federal funds attributable to the increased FMAP at any time prior to March 31, 2025.<sup>1</sup>

This letter makes no other changes to the requirements or other information described in SMD # 21-003, including that the temporary 10 percentage point increase to the FMAP for certain Medicaid expenditures for HCBS is only available for HCBS provided between April 1, 2021, and March 31, 2022. As such, states are expected to demonstrate compliance with the requirement not to supplant existing state funds expended for Medicaid HCBS until the state funds equivalent to the amount of federal funds attributable to the increased FMAP are fully expended. Specifically, states must:

- Not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021;
- Preserve covered HCBS, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021; and
- Maintain HCBS provider payments at a rate no less than those in place as of April 1, 2021.

More specifically, if a state makes use of the flexibility regarding demonstrating compliance with the timeline for fully expending state funds equivalent to the amount of federal funds attributable to the increased FMAP, the state is expected to comply with these requirements until the funds are expended.

### **Closing**

CMS remains committed to supporting states with strengthening and enhancing their HCBS systems and helping to ensure that Medicaid beneficiaries receive high quality, cost-effective, person-centered services in the setting of their choice. Section 9817 of the ARP provides states with additional federal funding for Medicaid HCBS that states can use to enhance, expand, or strengthen HCBS in response to the COVID-19 Public Health Emergency, accelerate reforms to long-term services and supports systems, and address other state-specific HCBS needs and priorities, such as *Olmstead* planning. Questions related to ARP section 9817 can be directed to [HCBSincreasedFMAP@cms.hhs.gov](mailto:HCBSincreasedFMAP@cms.hhs.gov).

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<sup>1</sup> CMS reminds states of the continued need to adhere to the requirements under section 1132(a) of the Social Security Act, which imposes a two-year limit from the date of expenditure on states' ability to claim federal financial participation. This two-year time period is not affected by the flexibility we are announcing in this letter under which states will not be required to demonstrate compliance with the March 31, 2024, deadline.

Sincerely,



Daniel Tsai  
Deputy Administrator and Center Director