Dear Deputy Director Stehle:

Please find below the Centers for Medicare & Medicaid Services’ (CMS) request for additional information regarding Arkansas’s American Rescue Plan Act of 2021 (ARP) section 9817 initial spending plan and spending narrative submitted on July 12, 2021.

We have identified missing information which we will need to review before the initial spending plan and spending narrative can be approved. The State Medicaid Director Letter (SMDL) #21-003, section D, titled Required Reporting on Activities to Enhance, Expand, or Strengthen HCBS under the Medicaid Program provides a description of the information states should include in their initial spending plans and spending plan narratives.

**Additional Information Requested**

Please provide an updated letter signed by the State Medicaid Director that contains the following five assurances as referenced in section D of the SMDL:

- The state is using the federal funds attributable to the increased FMAP to supplement and not supplant existing state funds expended for Medicaid HCBS in effect as of April 1, 2021;
- The state is using the 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 state is not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021;
- The state is preserving covered HCBS, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021; and
- The state is maintaining HCBS provider payments at a rate no less than those in place as of April 1, 2021.

In addition, please provide the following additional information related to each of these areas to facilitate our review and approval process:
• Estimate of the total amount of funds attributable to the increased FMAP that the state anticipates claiming between April 1, 2021, and March 31, 2022.

Based on the information in the spending plan, it is not clear what amount the state estimates claiming in funds attributable to the increased FMAP. Please update your spending plan to clearly indicate this information. CMS is available to provide technical assistance about how to calculate the estimate of the total amount of funds attributable to the increased FMAP and how to present this information in your spending plan.

• Estimate the anticipated expenditures for the activities the state intends to implement to enhance, expand, or strengthen HCBS under the state Medicaid program between April 1, 2021, and March 31, 2024.

In the submission, your state included information on the activities that it intends to implement and the total estimated cost for each activity. However, it is unclear whether some of the proposed activities would enhance, expand, or strengthen HCBS under the Medicaid program. CMS is requesting the following changes or clarifications to your state’s spending plan and narrative:

• HCBS Workforce Stabilization and Quality Improvement
  o Clearly indicate how the state intends to provide funding to providers (e.g., rate increases, one-time payments) and whether the funding will be targeted at providers delivering services that are listed in Appendix B of the SMDL or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit). If this activity is not focused on providers that are delivering services listed in Appendix B or that could be listed in Appendix B, explain how the activity enhances, expands, or strengthens HCBS under Medicaid.

• Technology and Education
  o Clearly indicate whether these activities are targeted at providers delivering services that are listed in Appendix B or that could be listed in Appendix B, or individuals who are receiving any of the services listed in Appendix B or services that could be listed in Appendix B. If any of the activities are not directly related to the services listed in Appendix B or services that could be listed in Appendix B, please explain how those activities enhance, expand, or strengthen HCBS under Medicaid.
  o Clearly indicate whether your state plans to pay for ongoing internet connectivity costs as part of the activity to provide “funding for provider and client consultation, training, and capacity building focused on enabling technology and ‘tech first’ provider distinctions.” Ongoing internet connectivity costs are permissible uses of funds to expand, enhance, or strengthen HCBS under section 9817 of the ARP. However, states must demonstrate how ongoing internet connectivity costs would expand, enhance, or strengthen HCBS. Further,
approval of ongoing internet connectivity costs in ARP section 9817 spending plans and narratives does not authorize such activities for FFP.
  o Provide additional information on the purpose, target audience, and expected outcomes of the “Targeted educational campaign for HCBS” activity.

• Expanding and Enhancing HCBS Services
  o Provide additional information on the types of renovations and the infrastructure that will be funded for complex clients and confirm that any capital investments will result in settings that are fully compliant with the home and community-based settings criteria. Please note that capital investments are permissible uses of funds to enhance, expand, or strengthen HCBS under section 9817 of the ARP. However, states must demonstrate how capital investments would enhance, expand, or strengthen HCBS and ensure that capital investments will result in settings that are fully compliant with the home and community-based settings criteria. Further, approval of capital investments in ARP section 9817 spending plans and narratives does not authorize such activities for federal financial participation (FFP). In addition, clearly indicate whether this activity will be targeted at providers delivering services that are listed in Appendix B or that could be listed in Appendix B, or individuals who are receiving any of the services listed in Appendix B or services that could be listed in Appendix B. If this activity is not directly related to the services listed in Appendix B or services that could be listed in Appendix B, please explain how the activity enhances, expands, or strengthens HCBS under Medicaid.

CMS will need additional information before it can determine whether any of those activities or uses of funds are approvable under ARP section 9817.

General Considerations

As part of this request for additional information, CMS is noting the following:
  • CMS expects your state to notify CMS as soon as possible if your state’s activities to expand, enhance, or strengthen HCBS under ARP section 9817:
    o Are focused on services other than those listed in Appendix B or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit). If any activities are not directly related to the services listed in Appendix B or services that could be listed in Appendix B, please explain how those activities expand, enhance, or strengthen HCBS under Medicaid;
    o Include room and board (which CMS would not find to be a permissible use of funds); and/or
    o Include activities other than those listed in Appendices C and D.

CMS will need additional information before it can determine whether any of those activities or uses of funds are approvable under ARP section 9817.

As of today, CMS’s review is suspended until we receive your complete response. So that we may continue with the review process, please provide the requested information within 15
business days. We look forward to continuing to work with you to advance HCBS in Arkansas. Please submit questions or concerns regarding this request for information to HCBSincreasedFMAP@cms.hhs.gov.

Sincerely,

Jennifer Bowdoin
Director, Division of Community Systems Transformation

cc: Elizabeth Pitman