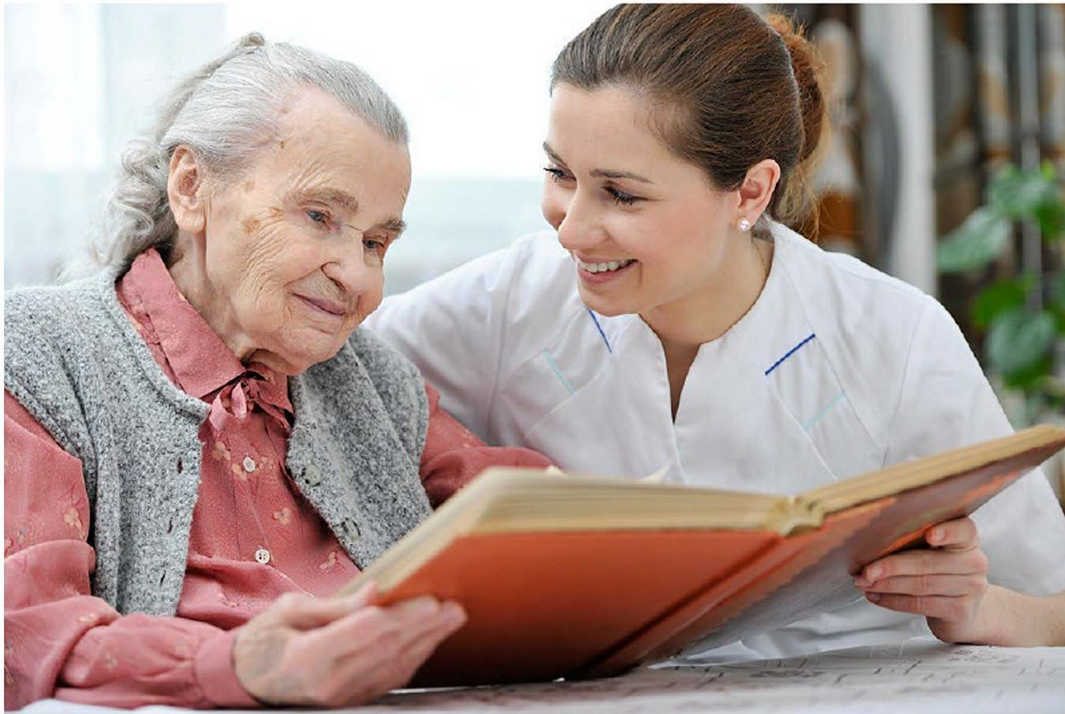




ENHANCED HCBS SPENDING PLAN AND NARRATIVE



July 2023

Kentucky Department for
Medicaid Services
Semi-Annual Narrative Update





**CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES**

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July 18, 2022

Dear Ms. Bowdoin,

The Kentucky Department for Medicaid Services (DMS) would like to thank the Centers for Medicare & Medicaid Services (CMS) for its approval of the semi-annual narrative for the Home and Community Based Services (HCBS) spending plan submitted in January 2023 and for its continued partnership.

In December 2022, DMS met with our federal partners and CMS approved the spending plan modification and reporting on the initiatives included in the June 2022 modification going forward. Modifications made to the plan stem from Kentucky's biennial budget passed by the State Legislature in April 2022. The bill includes language requiring allocation of all ARPA 9817 enhanced federal medical assistance percentage (FMAP) funding to support a series of legally mandated HCBS provider rate increases.¹ The bill language stipulates that upon exhausting the ARPA Section 9817 funding, it is the intent of the legislature to continue to support these rate increases using General Fund dollars.

The provider rate increases in the biennial budget that will be funded initially using ARPA 9817 include:

- A 50% rate increase for residential services for the Supports for Community Living (SCL) and Acute Brain Injury (ABI) waivers, and
- A 10% rate increase for all services in ABI, ABI-Long Term Care, Home and Community Based, SCL, and Michelle P. Waivers (excluding residential habilitation services included above) in FY 2022 – 2023 followed by an additional 10% rate increase in FY 2023 – 2024.
- **Note:** This legislatively-mandated provider rate increase does not impact rates for services provided in the Model II Waiver.

As defined in previous spending plan narrative submissions, DMS is currently in the final stages of a study that will lead to developing a comprehensive rate methodology for HCBS across all of Kentucky's 1915(c) waiver programs. DMS is anticipating rate study completion, including socialization with the Kentucky Legislature and the required public comment period, in Summer 2024 prior to submission to CMS for review. DMS has included a substantive update on rate study progress in the below narrative and looks forward to working with CMS to implement an approved rate methodology to better support our HCBS programs, providers, and waiver participants.

¹ Biennial Budget Bill Available Here (relevant ARPA 9817 language on Pages 78, 85-86):
<https://apps.legislature.ky.gov/recorddocuments/bill/22RS/hb1/bill.pdf>



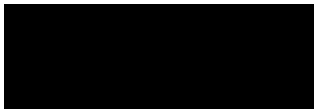
Spending Plan Narrative Assurances:

As defined on page 6 of SMD# 21-003 (“RE: Implementation of American Rescue Plan Act of 2021 Section 9817: Additional Support for Medicaid Home and Community-Based Services during the COVID-19 Emergency”) and Page 3 of 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”), DMS confirms adherence to the following required assurances associated with our approach to using federal funds attributable to the increased FMAP and implementing ARPA spending plan initiatives:

- Kentucky 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;
- Kentucky 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;
- Kentucky is not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services that were in place on April 1, 2021;
- Kentucky 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
- Kentucky is maintaining HCBS provider payments at a rate no less than those in place as of April 1, 2021

This plan, and all activities herein, are a collaboration between Medicaid, the Department for Behavioral Health, Developmental and Intellectual Disabilities, and the Department for Aging and Independent Living within the Cabinet for Health and Family Services. Kentucky remains committed to improving how our population accesses and how we deliver HCBS throughout the state, and we will continue to work to ensure this coordination and integration continues.

Sincerely,



Pam Smith, Director
Division of Long-Term Services and Supports



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Enhanced HCBS Spending Plan and Narrative

KENTUCKY DEPARTMENT FOR MEDICAID SERVICES

SPENDING PLAN NARRATIVE

Budget Overview

Initial estimates indicated that the Commonwealth of Kentucky would draw down approximately \$110 million in additional federal funds from the 10 percentage points of enhanced FMAP for HCBS expenditures between the eligible period of April 1, 2021, and March 31, 2022.

<i>Initial Estimated Additional Federal Drawdown for Kentucky, by State Fiscal Year</i>		
SFY 2020-2021	SFY 2021-22	Total
\$27 Million	\$83 Million	\$110 Million

To date, DMS has drawn down the following amounts during each of the following quarters to reinvest into HCBS:

<i>Adjusted Projection (eff. 5/4) Total Enhanced FMAP Federal Drawdown, by Quarter</i>				
Quarter Ended: 6/30/2021	Quarter Ended: 9/30/2021	Quarter Ended: 12/31/2021	Quarter Ended: 3/31/2022	Total Federal Drawdown (to date):
\$27,733,524	\$27,397,144	\$28,142,594	\$25,270,828	\$108,544,090

DMS has also begun tracking expenditures of the enhanced FMAP funding per the quarterly spending report, most recently submitted to CMS on July 18, 2023.

Summary of Estimated Funding Available for HCBS Expenditures (State and Federal)

Kentucky anticipates an estimated \$308.8 million to spend across three state fiscal years. The estimated funding included in the table below includes the total HCBS spend, including both federal and state expenditures and the enhanced funding made available via ARPA.

<i>Estimated Funding Available for Kentucky, by State Fiscal Year</i>			
SFY 2020-2021	SFY 2021-22	SFY 2023-24	Total
\$0	\$167.0 Million	\$141.8 Million	\$308.8 Million

Enhanced HCBS Spending Plan and Narrative

Quarterly Reporting Schedule and Submission Date

DMS recognizes that semi-annual reporting narratives are to be provided to CMS 75 days in advance of the first day of the federal fiscal quarters outlined below. To meet this deadline, DMS plans to submit semi-annual narrative updates and quarterly financial updates to comply with CMS requirements on an ongoing basis according to the following timeline, or until DMS has expended ARPA funds, as defined on page 2 of SMD# 22-002:

Quarter Beginning	Quarterly Financial Updates	Semi-Annual Narrative Submission Deadline	Submission Date
January 1, 2023	October 18, 2022	N/A	December 27, 2022 [Submitted after deadline following consultation with CMS]
April 1, 2023	January 16, 2023	January 16, 2023	January 16, 2023
July 1, 2023	April 17, 2023	N/A	April 4, 2023 with updates submitted April 17, 2023.
October 1, 2023	July 18, 2023	July 18, 2023	July 18, 2023
January 1, 2024	October 18, 2023	N/A	TBD
April 1, 2024	January 17, 2024	January 17, 2024	TBD
July 1, 2024	April 17, 2024	N/A	TBD
October 1, 2024	July 18, 2024	July 18, 2024	TBD
January 1, 2025	October 18, 2024	N/A	TBD
April 1, 2025	January 17, 2025	January 17, 2025	TBD

Note: DMS submitted a Spending Plan modification for CMS review in June 2022 to respond to legislative mandates that re-appropriated the use of ARPA funding to mandatory rate increases using enhanced FMAP funding. CMS approved this spending plan modification during a meeting with DMS on December 20, 2022.

**Workforce and Provider Development:
Building and Retaining a Network of Paid HCBS Caregivers**

Initiative: HCBS Provider Rate Increases	
<p>Description:</p>	<p>In April 2022, the Kentucky legislature authorized a biennial budget that includes language requiring the allocation of all ARPA 9817 enhanced federal medical assistance percentage (FMAP) to support a series of HCBS provider rate increases.² Bill language states that upon exhausting the ARPA Section 9817 funding, it is the intent of the legislature to continue to support these rate increases using General Fund dollars.</p> <p>The rate increases in the budget bill that will be initially funded using ARPA Section 9817 include:³</p> <ul style="list-style-type: none"> • A 50% rate increase for residential services for the Supports for Community Living (SCL) and Acute Brain Injury (ABI) waivers, and • A 10% rate increase for all services in ABI, ABI LTC, HCB, SCL, and MPW (excluding residential habilitation services included above) in FY 2022 – 2023 followed by an additional 10% rate increase in FY 2023 – 2024. <p>Per CMS guidance, DMS must complete the ongoing 1915(c) waiver rate study in advance of leveraging ARPA funding to support the above rate increases. While continuing to advance the rate study, DMS will temporarily use Appendix K modifications to authorize rate increases as outlined above. Following completion of the rate study, tentatively scheduled for late Fall 2022, DMS will implement long term rate changes through submission and approval of updated Appendices I and J for each applicable 1915 (c) waiver. The rate study is tentatively slated for completion in Fall 2022, which would indicate Spring 2023 as the earliest likely timeline to distribute funds.</p>
<p>November 2021</p> <p><i>Quarter Ended</i> 12/31/2021</p> <p><i>Quarterly Spending:</i> \$0</p>	<p>Activities to support this initiative will begin upon full CMS approval and are anticipated to continue through 2023. These activities will build and strengthen our provider network by ensuring providers are paid equitable wages. Funds to support changes in service structure and rate changes have been added to our waiver budget. We have been meeting with legislators and providing the information necessary educate them on the need for an increased operating budget.</p>
<p>March 2022</p> <p><i>Quarter Ended</i> 3/31/2022</p> <p><i>Quarterly Spending:</i> \$0</p>	<p>DMS initiated rate study activities in January 2022, including the following:</p> <p>Rate Study Stakeholder Workgroup: DMS initiated a rate study stakeholder workgroup to inform the end-to-end rate study process. Over 25 members comprise the workgroup, including a comprehensive group of advocates, waiver providers, provider association representatives, state agency leaders, and state legislators, who will provide subject-matter expertise and offer input throughout the rate study. DMS held the initial rate study stakeholder workgroup meeting on February 28, 2022.</p>

² Link to Budget Bill (pp. 85-86): <https://apps.legislature.ky.gov/recorddocuments/bill/22RS/hb1/bill.pdf>

³ The rate increase does not apply to services provided through the Model II Waiver program.

Initiative: HCBS Provider Rate Increases

The rate study and accompanying workgroup meetings are anticipated to occur monthly and last through Fall 2022. DMS is developing a publicly available website with information related to the ARPA spending plan and the rate study; DMS will post all relevant material, including rate study workgroup meeting minutes, rate study fact sheets, and more, to the website for public viewing.

Provider Rate Survey: DMS is developing a provider survey development to capture updated cost and wage information. DMS plans to engage the rate study stakeholder workgroup to provide feedback on the survey’s content, approach, and distribution. DMS is slated to release the survey and associated training materials in Spring 2022, with an anticipated close date one month after release.

Anticipated Next Steps and Timelines: Once DMS releases the survey to providers, we will begin several activities to support survey results, develop the new rates, and build an updated rate methodology for CMS review:

- Evaluate additional data sources for incorporation into rate development (e.g., Bureau for Labor Statistics, rate factors used in other states, CMS guidance and standards, prior rate study data) (Spring 2022)
- Develop rate models and related assumptions (Summer 2022)
- Produce rate recommendations and calculate related fiscal impact (Summer 2022)
- Provide rate development documentation (Summer – Fall 2022)
- Release rates for public comment, incorporate feedback as needed, and submit waiver amendments / modifications for CMS review (Fall – Winter 2022)

DMS will determine and finalize specific steps to complete this rate study by 3/31/2022.

April 2022

*Quarter Ended
6/30/2022*

*Quarterly Spending:
\$0*

DMS has continued to advance the 1915(c) waiver rate study since the previous submission in March 2022.

Provider Cost and Wage Survey Development and Review: DMS has developed and released a provider survey focused on collecting up-to-date cost and wage information. DMS engaged the rate study stakeholder workgroup to obtain feedback on the survey’s content, information captured, and approach to communicate with provider and other community representatives.

During the stakeholder workgroup meeting on 3/28/2022, the workgroup provided both verbal and written feedback on opportunities to enhance the survey and align the collected information with noted opportunities for improvement. DMS modified the survey to incorporate stakeholder feedback and released it to the public on 4/7/2022. The survey will remain open for responses for one month, and DMS will distribute reminder emails to providers to complete the survey on a weekly basis to encourage as much participation as possible.

DMS has also developed and distributed training materials to complement the provider cost and wage survey. Additionally, DMS held two virtual training sessions on 4/12/2022 and 4/13/2022. The recordings for each session, as well as the written training materials, are available on the DMS ARPA website:

<https://chfs.ky.gov/agencies/dms/dca/Pages/arpa.aspx>

Initiative: HCBS Provider Rate Increases

Stakeholder Feedback Inboxes: There are two inboxes for stakeholders to use to submit feedback and/or questions related to the rate study and provider cost and wage survey.

- CHFS.RateStudyWorkGroup@ky.gov: Questions related to objectives, purpose, and potential impact of the rate study. These questions go to DMS directly.
- KYHCBSRateStudy@guidehouse.com: Questions related to technical aspects of cost and wage survey. These questions go to our contractor completing the study on DMS' behalf.

Anticipated Next Steps and Timelines: DMS is well-positioned to begin several activities to support survey results, develop new rates, and build an updated rate methodology for CMS review:

- Process survey results and develop takeaways on an ongoing basis (Spring 2022)
- Evaluate additional data sources for incorporation into rate development (e.g., Bureau for Labor Statistics, rate factors used in other states, CMS guidance and standards, prior rate study data) (Spring 2022)
- Develop rate models and related assumptions (Summer 2022)
- Produce rate recommendations and calculate related fiscal impact (Summer 2022)
- Provide rate development documentation (Summer – Fall 2022)
- Release rates for public comment, incorporate feedback as needed, and submit waiver amendments / modifications for CMS review (Fall – Winter 2022)

January 2023

Quarter Ended

3/30/2023

Quarterly Spending:

\$0

DMS has continued to advance the rate study since the April 2022 report submission, using third party consultants. Due to changes in state procurement procedures that required re-contracting with rate study consultants, DMS paused the rate study from July – September 2022, resulting in a brief delay to initially proposed timelines. DMS engaged a waiver consultant in a new contract effective September 2022.⁴

Since the previous narrative report submission in April 2022, DMS has conducted the following activities to support rate and rate methodology development for CMS review:

- **Spring 2022:** Compiled and analyzed Provider Cost and Wage Survey data to inform initial rate modeling, holding post-survey review discussions with Rate Study Workgroup members who span the full continuum of HCBS provider types included in 1915(c) waivers.
- **Spring 2022:** Evaluated additional data sources for incorporation into rate development (e.g., Bureau for Labor Statistics, rate factors used in other states, CMS guidance and standards, prior rate study data) and confirmed use of alternative sources with Rate Study Workgroup members. DMS will include alternative data sources and how they factor into the rate methodology in an updated Appendix I-2-a for each 1915(c) HCBS waiver when submitted to CMS for review.

⁴ New waiver consultant contract is not funded through ARPA enhanced FMAP funding. DMS will address provider rate increases through enhanced FMAP funding as defined in the modified Spending Plan document submitted in June 2022.

Initiative: HCBS Provider Rate Increases

- **Summer / Fall 2022:** Developed initial rate models and related assumptions. DMS socialized initial rate models, related assumptions, and resulting rates with several provider stakeholders in November 2022. This stakeholder engagement process is outlined below.
- **Fall 2022:** Produced rate recommendations, reviewed preliminary rate assumptions with select providers to vet operational assumptions and build consensus within four working sessions (see below). Once assumptions were updated, we projected anticipated fiscal impact based on emergent rate recommendations.

Stakeholder Engagement: To foster transparency in rate development, DMS conducted four, ninety-minute Rate Study Workgroup “breakout sessions” with provider groups in November to vet draft rate assumptions, consider where assumptions comport with operational realities and refine the rate build-up process. DMS engaged the following provider segments during these sessions:

- Skilled Providers (November 15)
- Day Services Providers (November 15)
- Residential Services Providers (November 16)
- Case Management Providers (November 16)

DMS has consolidated feedback from these sessions and incorporated into the draft rates accordingly. DMS understands the need to capture and leverage feedback from the provider community during the rate development process and has emphasized stakeholder engagement during each phase of the rate study.

Anticipated Next Steps: DMS anticipates the following next steps to finalize an updated rate methodology for CMS review:

- Socialize rates with the Kentucky Legislature for approval prior to CMS submission and review (Winter / Spring 2023)
- Release rates for public comment, incorporate feedback as needed, and submit waiver amendments / modifications for CMS review (Winter / Spring 2023)
- Update Kentucky Administrative Regulations following CMS approval and implement updated rates (Summer / Fall 2023)

July 2023

Quarter Ended

6/30/2023

Quarterly Spending:

\$35,930,057

DMS has continued to advance the HCBS provider rate increases.

In accordance with the most recent 1915(c) Appendix K modifications, DMS has performed a retroactive claims adjustment back to July 1, 2022 to reflect CMS-approved payment increases. These include the following increases:

- A 50% rate increase for residential services for the Supports for Community Living (SCL) and Acute Brain Injury (ABI) waivers, and
- A 10% rate increase for all services in ABI, ABI LTC, HCB, SCL, and MPW (excluding residential habilitation services included above) in FY 2022 – 2023 followed by an additional 10% rate increase in FY 2023 – 2024.

Initiative: HCBS Provider Rate Increases

In addition, DMS has modified the MMIS payment system to pay the appropriate increased rates on a go-forward basis as of July 1, 2023.

DMS understands that while this temporary rate increases have been approved, approval and payment is conditional upon the continuation of the ongoing 1915(c) waiver rate study. The rate study process is complete and the proposed reimbursement methodology and resulting benchmark rates are under DMS review. DMS acknowledges that the Legislature must allocate funding in order to implement benchmark rate study rates, and thus recognizes the importance of answering legislative questions and responding to feedback, if necessary. DMS is scheduled to present benchmark rate study rates to Legislative committee on August 2, 2023. DMS anticipates funding being allocated as part of the 2024 Legislative Session.

Anticipated Next Steps: Timelines have changed given the current executive and legislative review underway. DMS anticipates the following next steps to submit an updated rate methodology for CMS review:

- Socialize rates with the Kentucky Legislature for approval prior to CMS submission and review (Summer 2023 through Spring 2024)
- Release rates for public comment, incorporate feedback as needed, and submit waiver amendments / modifications for CMS review (Spring / Summer 2024)
- Update Kentucky Administrative Regulations following CMS approval and implement updated rates (Summer 2024)

Project Management and Administrative Support

Kentucky is committed to utilizing the funds made available from the ARPA to promote waiver transformation with a focus on rebalancing in a fiscally responsible manner. A portion of the funds would be used to onboard project management to support the administrative functions of this endeavor and to support the state in activities to support changes such as reviewing existing regulations and waiver applications. In addition, the project manager would provide project management support.

November 2021 (Quarter Ended 12/31/2021)

DMS is finalizing a contract to begin this month with a waiver consultant that will be responsible for assisting with project management activities as well as conducting the rate methodology and service study.

March 2022 (Quarter Ended 3/31/2022)

DMS executed a contract that onboarded a waiver consultant in January 2022. Since onboarding, the waiver consultant has assisted with establishing a project management office (PMO) that is actively scoping implementation of the above initiatives and quarterly reporting to CMS. The PMO is establishing the needed communication, risk management and change management tools needed to support the Cabinet team in navigating a multi-faceted spending plan while maintaining routine business and oversight functions.

Additionally, DMS has taken the following actions to bolster project management activities:

- Scheduling and hosting recurring meetings with the PMO team.
- Establishing information sharing platforms (e.g., SharePoint, Teams) to improve inter-agency communication among Cabinet stakeholders.
- Coordinating additional mechanisms to gather timely updates from subcontractors, operating agencies, and consultancies to support accurate, high-quality reporting and spend tracking with CMS.

DMS is working with the PMO to finalize a series project plans that will organize and govern implementation of ARPA Spending Plan initiatives by 3/31/2022. Additional project planning is anticipated through Q2 2022, based on limited Cabinet resources and competing demands that have necessitated sequenced approaches to achieve manageable levels of incremental progress.

April 2022 (Quarter Ended 6/30/2022)

Since the most recent narrative submission on 3/18/2022, DMS has continued to work with the waiver consultant to scope and finalize project plans for the ARPA initiatives highlighted above. The PMO has continued to maintain the needed communication, risk management, and change management tools to support the Cabinet in navigating spending plan implementation.

DMS is currently evaluating the biennial budget passed by the Kentucky legislature as defined in the cover letter above and its potential impact on the conditionally-approved spending plan initiatives. DMS will work with the PMO to determine next steps and appropriate updates to the spending plan and associated narrative.

The ARPA PMO contract leveraging ARPA-funded enhanced FMAP expired on June 30, 2022.

January 2023 (Quarter Ended 3/30/2023)

In September, DMS executed a new contract for waiver consultants to assist with ARPA PMO and 1915(c) waiver-related technical assistance and professional services. The contracted scope of work includes continuing the rate methodology study as described above. The current contract is not funded using ARPA enhanced FMAP and therefore will not be included in spending plan updates.

Conclusion

DMS has continued to make progress towards completing the provider rate study in alignment with the modified spending plan submitted in December 2022. A comprehensive rate study that results in rate recommendations and a long-term, defensible rate methodology will be a significant modernization to Kentucky's 1915(c) HCBS waiver programs. We are eager to submit to CMS and advance to approval rates that better address reasonable and anticipated costs incurred by the provider community as they deliver services, to promote access for waiver participants. We are also eager to come into compliance with CMS requirements for establishing a rate methodology as defined in 1915(c) technical guidance and federal trainings. DMS has prioritized stakeholder engagement throughout the rate study progress to promote a transparent process with stakeholders from across the HCBS landscape, including providers, advocates, legislators, and others.

As defined above, DMS anticipates draft rate methodology submission to CMS in Spring 2024 and looks forward to working with our federal partners during the review process. DMS thanks CMS for the recent initial approval of our modified ARPA spending plan. We look forward to your feedback and continued partnership.

We are happy to answer questions or offer additional information specific to this spending plan update.