



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

July 18, 2023

Daniel Tsai
Deputy Administrator and Director
Center for Medicaid & CHIP Services (CMCS)
7500 Security Blvd
Baltimore, MD 21244

Dear Deputy Administrator and Director Tsai:

The Maryland Department of Health (the Department) is pleased to submit its newest quarterly update to its Initial Spending Plan Projection and Narrative submitted on July 13, 2021. The Department plans to enhance, expand, and strengthen home and community-based services (HCBS) and behavioral health services under the Medicaid program using an estimated \$612.3 million total funds including federal financial participation (FFP) pursuant to Section 9817 of the American Rescue Plan Act of 2021 (ARPA).

Use of enhanced federal funding will reinforce the Department's commitment to improve equity and access to HCBS for those with physical disabilities, intellectual and developmental disabilities, and behavioral health needs. The Department will use the majority of funds to increase provider rates, as directed in the State's fiscal year 2022 budget passed during the 2021 Maryland legislative session. In addition, the Department implemented a one-time temporary emergency 4% rate increase July 1, 2022 through June 30, 2023 for Long Term Services and Supports HCBS. In our February 2022 submission, the Department incorporated a proposal to cover certified peer recovery services for substance use disorder (SUD). A Certified Peer Recovery Specialist (CPRS) is an individual who uses lived experience in recovery to help others in their recovery journey. CMS ultimately approved this proposal; services began on June 1, 2023. The Department has further adjusted its spending plan for community behavioral health services by implementing a one-time, one quarter temporary emergency 4% rate increase for the Brain Injury Waiver from July 1, 2022 through September 30, 2022. Finally, the Department has adjusted its spending plan for Developmental Disabilities Administration (DDA) services by lowering the amount of provider grants and instead implementing a one-time, one-quarter emergency rate increase of 10% for providers.

Collaboration between the DDA and the Maryland Behavioral Health Administration (BHA) is a key component of this proposed spending plan. The Department is also committed to working with our many community partners and stakeholders in a collaborative fashion to achieve the goals of enhancing, expanding and strengthening HCBS.

The Department will continue to serve as the Operating Agency for the American Rescue Plan initiatives through the Maryland Medicaid program. If you would like to discuss this further, please contact me at

[REDACTED]

Sincerely,

Tricia Roddy

Deputy Medicaid Director

American Rescue Plan Act of 2021
Section 9817 Spending Plans and Narrative
Quarterly Update
July 2023

Introduction

On March 11, 2021, President Biden signed into law the American Rescue Plan Act (ARPA). A portion of ARPA (Section 9817) provides additional support for Medicaid home and community-based services (HCBS) during the COVID-19 emergency by providing a 10% enhanced federal medical assistance percentage (FMAP) for a one-year period from April 1, 2021 to March 31, 2022. HCBS are person-centered services delivered either in the home or the community to support participants who need assistance with everyday activities, finding and maintaining competitive integrated employment, and community integration. States must use the federal funds attributable to the one-year increased FMAP by March 31, 2024, and in addition, 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.

In alignment with ARPA, the Maryland Department of Health (the Department) will use these funds to supplement and not supplant existing HCBS funding. Additionally, the Department will not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services that were in place on April 1, 2021. The Department will also preserve covered HCBS, including the actual services and the amount, duration, and scope of those services, in effect as of April 1, 2021.

July 2023 Update

Certified Peer Recovery Specialists

As previously approved by CMS, starting on June 1, 2023, Maryland Medicaid expanded coverage to include Certified Peer Recovery Specialists (CPRS) services for substance use disorders (SUD). A CPRS is an individual who uses lived experience in recovery to help others in their recovery journey. These services became available as individual and/or group services for participants receiving ASAM level 1, 2.1, 2.5 or OTP levels of care. The rates as of July 1, 2023 reflect a 3% statutory increase, with the individual rate per unit at \$16.87, and group rate at \$4.69 per unit. Maryland expects to increase these rates again on January 1, 2024, based on the Governor's budget.

DDA Grants

In May 2023, the DDA awarded \$3,211,167 in competitive grant funding to 25 DDA licensed providers and other qualified nonprofit community organizations to support and enhance home and community-based services. Funded projects demonstrate at least one of the four outcomes: advancing innovation to develop or expand ways to support people with developmental disabilities, supporting systems transformation, enhancing independence and inclusive

opportunities for people with developmental disabilities and developing resources and infrastructure that strengthen the delivery of services. Grant projects began July 1, 2023, and will conclude by March 31, 2025.

In August 2023, the DDA will offer a noncompetitive grant opportunity to the 100 DDA licensed grant applicants that did not receive competitive grant funding in May 2023. The remainder of the \$5 million in ARPA funds (\$1,788,833) will be distributed through these grant awards and will support and enhance home and community-based services for individuals with developmental disabilities in Maryland. Eligible grant projects will support and enhance home and community-based services under at least one of the following funding priority areas: 1) investing in technological resources to support the transition to LTSS Maryland for billing; 2) accessing technical assistance from subject matter experts to support the transition to LTSS Maryland for billing; 3) enhancing the delivery of services by providing training and development opportunities for staff members; and 4) providing one-time incentive payments for Direct Support Professionals to support the recruitment and retention of staff members providing direct support services.

January 2023 Update

In previous updates, this narrative noted a retroactive 5.5% provider rate increase for Developmental Disabilities Administration (DDA) services starting April 1, 2021. However, it incorrectly included Targeted Case Management (TCM) services in that rate increase. TCM providers received a 5.5% rate increase, but due to public notice requirements, that rate increase began November 1, 2021.

October 2022 Update

The Department received CMS approval in August for the plans proposed in its July submission. Since then, the Department implemented the one-time temporary emergency 4% rate increase for all providers who render waiver services to participants of the Waiver for Children with Autism Spectrum Disorder (“Autism Waiver”), Home and Community-Based Options Waiver (“Community Options Waiver”), Medical Day Care Services Waiver (“Medical Day Care Waiver”), and Home Care for Disabled Children Under a Model Waiver (“Model Waiver”), effective for the 4 quarters of state fiscal year 2023, July 1, 2022 through June 30, 2023.

Additionally, the Department implemented a one-time, one quarter emergency rate increase of 4% for providers who render waiver services to participants of the Waiver for Adults with Brain Injury (“Brain Injury Waiver”). This rate increase will be in effect during the first quarter of state fiscal year 2023, July 1, 2022 through September 30, 2022.

Both rate increases are in addition to the increases previously approved by CMS and those required by state legislation.

For TCM, the temporary 10% rate increase will be effective during the second quarter of state fiscal year 2023 (October 1, 2022 - December 31, 2022). The rates will revert after the end of the 2022 calendar year.

July 2022 Update

The Department proposed the implementation of a temporary 4% rate increase for all providers who render waiver services to participants of the Waiver for Adults with Brain Injury (“Brain Injury Waiver”), Waiver for Children with Autism Spectrum Disorder (“Autism Waiver”), Home and Community-Based Options Waiver (“Community Options Waiver”), Medical Day Care Services Waiver (“Medical Day Care Waiver”), and Home Care for Disabled Children Under a Model Waiver (“Model Waiver”), effective for the 4 quarters of state fiscal year 2023, July 1, 2022 through June 30, 2023.. As noted above, the rate increase for the Waiver for Adults with Brain Injury (“Brain Injury Waiver”) has been corrected to reflect a one-time, one-quarter increase from July 1, 2022 to September 30, 2022. These rate increases are in addition to the rate increases previously approved and those required by state legislation.

The Department also proposed an adjustment to its spending plan for DDA services by lowering the amount of provider grants and instead implementing a one-time emergency 10% provider rate increase for the third quarter of state fiscal year 2022 (January 1, 2022 - March 31, 2022). TCM providers did not receive this rate increase; they will receive a one time 10% emergency rate increase for the and the quarter of the approval of the State Plan Amendment that is separate from the other rate increases. The TCM rate increase will revert back to the rate that was in effect July 1, 2022.

The Department continued to work with its Finance Department and The Hilltop Institute at University of Maryland Baltimore County (Hilltop) to calculate the expenditures for reporting in the CMS-64.

The Department continued to finalize plans to implement coverage for certified peer recovery specialists (CPRS) for substance use disorder (SUD). CMS approved this proposal during the previous quarter, and it was included in the February and April 2022 Spending Narrative(s).

April 2022 Update

The Department began work with its Finance Department and The Hilltop Institute at University of Maryland Baltimore County (Hilltop) to calculate the expenditures for reporting in the CMS-64.

The Department received approval for implementation of certified peer recovery report specialists (CPRS) for substance use disorder (SUD) from CMS, which was included in the February 2022 Spending Narrative.

During the previous quarter, the Department received CMS guidance regarding the proposed grants to DDA providers. Specifically, the grants will not be eligible for a federal match. As a result, the Department investigated limiting the amount of the grants. The fiscal estimates for the funding available to DDA were adjusted in the report.

Stakeholder Input

The Maryland General Assembly convened its 2021 session on January 13, 2021 and it adjourned on April 12, 2021. This allowed the State legislature the opportunity to respond to ARPA.

As a part of the State's fiscal year 2022 budget, the Department was directed to spend at least 75% of federal funds attained by the Department resulting from any enhancement to the FMAP for HCBS authorized in ARPA only on a one-time rate increase paid to Medicaid home and community-based providers. Any remaining federal funds may be expended only on waiver slot expansions and other efforts to ensure the enhancement, strengthening, and expansion of HCBS. The Department has committed to adopting a similar level of investment for behavioral health services whereby 75% of any federal funds obtained due to the eFMAP will also be allocated to rate increases for eligible providers. For programs administered by the DDA, the legislature passed similar budgetary provisions that directed the Department to spend 75% of any federal funds obtained due to an enhanced FMAP be expended on a one-time rate increase to eligible community providers. Any remaining funds are directed to be spent on grants to community providers and nonprofit organizations.

The Department initiated a Request for Public Comment on how the Department should spend any remaining ARPA funds. The public comment period opened on October 12, 2021 and ran through November 15, 2021. Comments were submitted online via a dedicated website.

For behavioral health related comments, the Department received 58 comments from more than 45 stakeholders. Stakeholders proposed a variety of initiatives, including covering certified peer support recovery services, providing more housing options, instituting rate increases for current services, expanding day programs, as well as additional funding for SUD programs and psychiatric rehabilitative services. The suggestions around covering certified peer support recovery services aligns with the Department's priorities for expanding and strengthening behavioral health services.

For long-term care related comments, the Department received 30 comments total from 23 individuals. While the Department is still analyzing the feedback, stakeholders primarily recommended proposals to increase wages and benefits to frontline workers and shorten current waitlists for HCBS programs.

The Department has alerted stakeholders that ARPA monies may not be used to fill home and community-based services slots until all its approved slots have been filled. This was based on feedback from CMS. The Department is currently approved to fill 6,348 slots under the Community Options Program. Through December 2021, MDH has filled 4,456 for FY 2022. Because there is still a gap in the number of approved slots and the Department's budgeted amount, new slots are not included in this spending plan at this time. The Department's goal is to fill over 5,000 slots in FY 2023. The Department's budget reflects this increase in slots and additional staff will be hired to assist in filling these additional slots.

The Department is continuing to review the additional suggestions targeted at long-term care.

Requested Policy Changes

Consistent with the budgetary language and with its initial spending plan, the Department requested and CMS approved spending of 75% of the reinvestment dollars on provider rate increases. These rate increases went into effect on November 1, 2021. Rates were increased by 5.2% for HCBS programs, 5.4% for behavioral health services and programs, and 5.5% for programs administered by the DDA. The DDA's rate changes included a retroactive payment as well. This retroactive payment was aligned with the April 1, 2021 ARPA start date.

For the remaining funds allocated to long-term care HCBS, the Department requested and CMS approved a temporary 4% rate increase for all providers who render waiver services to participants of the Waiver for Children with Autism Spectrum Disorder ("Autism Waiver"), Home and Community-Based Options Waiver ("Community Options Waiver"), Medical Day Care Services Waiver ("Medical Day Care Waiver"), and Home Care for Disabled Children Under a Model Waiver ("Model Waiver"), effective for the 4 quarters of state fiscal year 2023, July 1 through June 30, 2023.

For the remaining funds allocated towards behavioral health programs, the Department proposed and CMS approved coverage of certified peer recovery services for SUD. A Certified Peer Recovery Specialist (CPRS) is an individual who uses lived experience in recovery to help others in their recovery journey. Additionally, the Department proposed and CMS approved a one-time emergency rate increase for providers who render waiver services to participants of the Waiver for Adults with Brain Injury ("Brain Injury Waiver") for only the first quarter of state fiscal year 2023, July 1, 2022 through September 30, 2022.

Waiver Authorities and Other Considerations

For behavioral health services and long-term care, the Department is working on updating its State Plan and 1915(c) waiver Appendix K documents to reflect the various rate methodology changes resulting from the provider rate increases. The start date for these rate increases was November 1, 2021. State Plan Amendments for TCM and HCBS were submitted to CMS on December 14, 2021.

The Department updated its DDA Appendix K to reflect the rate increase retroactively back to April 1, 2021.¹ The Department also confirms that there will not be a reduction in provider rates/payments as a result of the transition from prospective payment to fee-for-service reimbursement as supported by LTSS *Maryland*. The DDA-operated 1915(c) waivers and TCM State Plan reflect various rate changes due to the provider rate increases. CMS approved Maryland's State Plan Amendment MD-22-0015 on October 19, 2022, and the waiver renewal will be submitted in January 2023.

The Department will be using the reinvestment dollars to increase the provider rates that qualify for the enhanced match. Additionally, it will not transfer monies across programs, e.g., additional

¹ For more information, please see the Appendix K approval letter: <https://www.medicaid.gov/state-resource-center/downloads/md-appendix-k-appvl-ltr-10.pdf>.

federal dollars generated by HCBS will be reinvested back into the HCBS and will target provider rates eligible for the enhanced match. Because the Department is not transferring monies across programs, the provider rate increases will vary. The Department’s analysis limits the increased match to 5% if the service or individual is already eligible for a 90% match. Services provided through the Children’s Health Insurance Program (CHIP) were also removed.

Maryland covers its community behavioral health services under an optional Medicaid state plan benefit authorized at section 1905(a)(13) of the Act and codified in regulation at 42 CFR §440.130(d). Therefore, all of these services are eligible for the enhanced match. Additionally, the analysis for long-term care and DDA services only includes services specifically outlined in Appendix B of SMDL # 21-003.

Data Analysis and Estimated Fiscal Impact

To complete the initial estimates detailed below, the Department worked with their data warehouse at Hilltop to estimate the impact of the additional federal funding that will be re-invested into HCBS due to the 10% FMAP increase from ARPA for HCBS-LTSS and BH. The DDA conducted its analysis as described below in the section titled HCBS Estimates—Maryland Developmental Disabilities Administration Programs.

Overall, the Department’s actual expenditures closely align with its original estimates. The Department will be able to draw down more funds than anticipated for HCBS and BH services. The Department will be able to draw down fewer funds than anticipated for the DDA program.

Table 1. Actual Expenditure Information, Funds attributable to the HCBS FMAP Increase, April 1, 2021 through December 31, 2021

	Original Estimated Funds Attributable, April 2021 - March 2022	Total Actual Funds Attributable, April 2021 - March 2022	Difference between Original Estimated and Total Actual Funds Attributable
HCBS LTSS	\$62,656,799.00	\$78,405,838.40	\$15,749,039.40
BH	\$70,768,589.00	\$78,539,550.94	\$7,770,961.94
DDA	\$140,332,724.00	\$130,259,367.54	-\$10,073,356.46
TOTAL	\$273,758,112.00	\$287,204,756.88	\$13,446,644.88

The Department began reinvesting ARPA funds on July 1, 2021. As of the end of March, 2023,, the Department has reinvested over \$114.2 million.

Table 2. ARPA Reinvestment as of March 31, 2023

	Total Amount to be Reinvested	Amount Reinvested as of 3/31/2023	Amount of Funds Remaining for Reinvestment
<i>HCBS LTSS</i>			
State Funds	\$78,405,838.40	\$30,775,895.39	\$47,629,943.01
Federal Funds		\$49,255,956.42	
Total Funds		\$80,031,851.81	
<i>BH</i>			
State Funds	\$78,539,550.94	\$24,568,189.90	\$53,971,361.04
Federal Funds		\$55,769,587.78	
Total Funds		\$80,337,777.68	
<i>DDA</i>			
State Funds	\$130,259,367.54	\$58,918,753.86	\$71,340,613.68
Federal Funds		\$87,014,567.76	
Total Funds		\$145,933,321.62	
TOTAL	\$287,204,756.88	\$114,262,839.15	\$172,941,917.73

For additional information, please see the accompanying spreadsheet.

Long-Term Care HCBS Estimates—Medicaid

Overall, the Department increased rates for HCBS by 5.2% in order to spend 75% of the funds (see Appendix C). The Department spent \$96.3 million during the time period, with \$47.0 million coming from state funds and \$49.3 million in federal funds.

The total estimated funds are \$128.4 million (\$62.7 million in state funds and \$65.9 million in federal funds). The remaining 25% not attributed to the rate increases is \$32.1 million (\$15.7 in state funds and \$16.4 million in federal funds).

The Department confirms that all of the codes used in this analysis are targeted to services listed in Appendix B of the SMDL and the providers that deliver those services.

The spending for the 5.2% rate increase has already been approved by CMS.

Other Long-Term Care HCBS Initiatives

With the remaining funds (approximately \$32.1 million total funds, \$16.4 million federal funds/ \$15.7 state funds), the Department temporarily increased rates for long-term care HCBS services by 4%. This rate increase began on July 1, 2022 and will end on June 30, 2023.

Behavioral Health Estimates

The Department increased behavioral health services rates by 5.4% in order to spend 75% of the excess FMAP funds by the end of March 2024 (see Appendix C). This would result in a spending increase of \$141.6 million total funds, with \$53.1 million coming from state funds and \$88.5 million coming from federal funds.

The total estimated funds is \$188.8 million (\$70.8 million in state funds and \$118.0 million in federal funds). The remaining 25% not attributed to the rate increases is \$47.2 million (\$17.7 million in state funds and \$29.5 million in federal funds).

The Department confirms that all of the services included in this analysis are targeted to those listed in Appendix B of the SMDL and the providers that deliver those services.

Other Behavioral Health Initiatives

For certified peer recovery support services (CPRS) program for SUD, the Department assumes it would need approximately \$24.0 million total funds per year, with \$14.4 million coming from federal funds (or 60%) and \$9.6 million coming from state funds. With these funds CPRS could deliver services to more than 63,000 Maryland Medicaid participants annually. The CPRS program went live on June 1, 2023.

Additionally, the Department implemented a one time, one quarter temporary emergency rate increase for providers who render waiver services to participants of the Waiver for Adults with Brain Injury (“Brain Injury Waiver”) for only the first quarter of state fiscal year 2023, July 1, 2022 through September 30, 2022.

To the extent that there are any additional available funds based on actual expenditures, the Department will revisit other initiatives in the next report.

HCBS Estimates—Maryland Developmental Disabilities Administration Programs

The DDA reinvestment spending plan generally consists of both sustained rate increases as well as emergency/temporary rate increases targeting specific Medicaid-funded HCBS providers where there is an identified and demonstrated need. These activities have already been approved by CMS. The numbers in Table 3, Estimated Funds to Spend on Rate Increases and Grants Associated with the DDA, is representative of DDA’s calculations inclusive of federal match monies.

Rate Increase: Provide a retroactive rate increase effective April 1, 2021 of approximately 5.5% (or \$196 million) to assist providers recovering from the economic devastation of the COVID-19 pandemic, as well as the resulting challenge of direct support professional recruitment. Note: the rate increase for TCM providers was not retroactive from April 1, 2021, but instead began on November 1, 2021. This would account for approximately 75% of the excess funds resulting from ARPA. The rate increase will be sustained by the ARPA funds through March 31, 2024, at which time the state would make the increase permanent to maintain the glide path.

Additionally, the DDA implemented a one time temporary emergency 10% rate increase for DDA providers effective for the third quarter of state fiscal year 2022, January 1, 2022 through March 31, 2022. This increase excludes TCM providers, who will instead receive a one time 10% emergency rate increase for the second quarter of state fiscal year 2023 (October 1, 2022 - December 31, 2022). This rate increase is in addition to the rate increases previously approved and required by state legislation.

Other Enhancements of HCBS

As noted above, the Department updated its last spending plan to adjust the amount provided for competitive grants from \$10 million to \$5 million. These grants are not eligible for federal match.

The purpose for these competitive grants will be for the development and implementation of new HCBS business models such as expanded use of technology, customized employment, independent housing support models, community-hub development, environmental modifications, transportation alternatives and services, consulting and SME services, and/or strategic planning and business model development to provide new or additional Medicaid HCBS. These grants will not fund “room and board” costs. Any funds remaining from the \$5 million (~\$1,788,833) competitive grants will be repurposed for non-competitive grants to enhance HCBS by supporting reopening efforts, DSP workforce recruitment and retention activities, IT (excluding internet costs) support to support provider transitions to fee-for-service and LTSSMaryland billing system, as well as consulting and SME services.

Nonprofit organizations contracted by the DDA to provide indirect services that enhance HCBS Participants’ independence and inclusive opportunities, such as the Special Olympics and local colleges for the development of programs that support higher learning for people with intellectual and/or developmental disabilities, are also eligible to apply for the competitive grants.

HCBS Innovations and Provider Supports will be limited to the examples provided in Appendices B & C of SMDL #21-003.

HCBS-Related Administrative Expenses

Administrative costs will be no more than 5% of federal funds attained by DDA, and will be expended on expenses related to grant administration and expediting new placements in HCBS

(from the waiting list) and to improve the processing of person-centered plans. The total amount of ARPA funds that will be reinvested in administrative expenses is estimated at \$5.5 million.

Table 3. Estimated Funds to Spend on Rate Increases and Grants Associated with of Developmental Disabilities Administration (including federal match)

Activity	Total Estimated Reinvestment (Ending 3/31/2024)
Rate Increase	\$196M
Temporary Rate Increase	\$36M
Competitive Grants	\$5M
Administrative	\$5.5M
Total	\$242.5M

The Department confirms that all of the services included in this analysis are targeted to those listed in Appendix B of the SMDL and the providers that deliver those services.

Conclusion and Next Steps

The Department will continue to monitor the ARPA-related spending and implement the CPRS services for SUD. The Department looks forward to working with CMS to implement these proposed changes.

Appendix A: Maryland Response to CMS Partial Approval Letter Dated September 28, 2021

The Department acknowledges receipt of the CMS partial approval of its initial spending plan and narrative with respect to the state’s compliance with the applicable requirements set forth under section 9817 and fulfillment of the requirements as stated in SMDL # 21-003. The Department acknowledges that CMS has provided approval to claim the enhanced FFP for any expenditures that are eligible for FFP.

Below, please find the Department’s responses to the issues raised by CMS in its partial approval.

Non-Approvable Activities or Use of Funds:

- 1. Funding for a retroactive rate increase prior to April 1, 2021 for Maryland Developmental Disabilities Administration is not permissible. Please update the spending plan to clearly indicate that rate increases will not be prior to April 1, 2021, or propose an alternate activity.**

The Department has updated the HCBS spending plan to clarify the start date. The retroactive period for the rate increases for DDA will be April 1, 2021 and not prior to that date.

Additional Information Requested:

- 1. Clearly indicate whether the activities in the following categories are targeted at providers delivering services that are listed in Appendix B of the SMDL or that could be listed in Appendix B:**

Proposed Activity	Inclusion in/Relation to Appendix B
Provider Rate Increases for HCBS	Department response: These rate increases are targeted to providers delivering services listed in Appendix B.
Behavioral Health Services Rate Increases	Department response: These rate increases are targeted to providers delivering services listed in Appendix B.
Maryland DDA Temporary Rate Increases	Department response: These rate increases are targeted to providers delivering services listed in Appendix B.
Maryland DDA Grants to Enhance HCBS	Department response: Grants will be used to enhance HCBS activities, and would not be used to fund room and board and will be limited to the to activities listed in Appendices C and D of SMDL #21-003.

If these activities are not focused on providers that are delivering services that are or could be in Appendix B, explain how the activities enhance, expand, or strengthen HCBS in Maryland.

The Department's planned activities are focused on providers that are delivery services that are or could be in Appendix B.

- 2. Confirm that the models to provide independent affordable housing do not include room and board. In addition, clearly indicate whether your state plans to pay for capital investment or on-going internet connectivity costs as a part of the grants to enhance HCBS activities. States must demonstrate how capital investments and on-going internet connectivity costs would enhance, expand, or strengthen HCBS and ensure that capital investments will result in settings that are fully compliant with HCBS criteria. Further, approval of capital investment and ongoing internet connectivity costs does not authorize such activities for FFP.**

The Department confirms that it will not be providing room and board, capital investments, or ongoing internet connectivity as a part of the grants to enhance HCBS activities.

- 3. Clarify that the transition from prospective payment to fee-for-service reimbursement supported by *LTSSMaryland* will not result in reduced provider payments as compared to those in place as of April 1, 2021.**

The Department confirms that there will not be a reduction in provider rates/payments as a result of the transition from prospective payment to fee-for-service reimbursement as supported by *LTSSMaryland*.

General Considerations

The Department acknowledges receipt of this information (considerations 1-5 listed below) and agrees that it will comply with these requirements; however, the consideration (4) is not applicable to Maryland. HCBS and specialty behavioral health services are delivered on a fee-for-service basis; therefore, they are not part of the HealthChoice managed care program.

1. CMS expects your state to notify CMS as soon as possible if your state's activities to enhance, expand, or strengthen HCBS:
 - a. Are focused on services other than those listed in Appendix B. If any activities are not directly related to the services listed in Appendix B, please explain how those activities enhance, expand, or strengthen HCBS under Medicaid;
 - b. Include room and board; and/or
 - c. Include activities other than those listed in Appendices C and D

2. HCBS provider pay increases will require an updated rate methodology. For 1915(c) waiver programs, states are required to submit a waiver amendment. If retrospective approval will be required, the state should make the change in the Appendix K application.
3. The state plan methodology must specify comprehensively the methods and standards used by the agency to set payment rates. The state plan methodology must be comprehensive enough to determine the required level of payment and the FFP to allow interested parties to understand the rate setting process and the items and services that are paid through the rates. Claims for federal matching funds cannot be based upon estimates or projections. The reimbursement methodology must be based upon actual historical utilization and actual trend factors.
4. States providing HCBS through a managed care delivery system must comply with applicable federal requirements, including 42 C.F.R. part 438. States must also ensure that appropriate authority is granted for the services and activities to be covered as well as to deliver such services and activities through a managed care delivery system. Additionally, states will need to assess implications for its managed care plan contracts and actuarially sound capitation rates in order to operationalize any programmatic changes. States that seek to contractually require their managed care plans to increase HCBS provider payments must adhere to federal requirements for state directed payments in accordance with 42 C.F.R. § 438.6(c), including prior approval as required.
5. If your state is reducing reliance on a specific type of facility based or congregate services and increasing beneficiary access to services that are more integrated into the community, your state should be clear with stakeholders in your state's stakeholder engagement activities, as well as in submission to CMS of required ARP section 9817 spending plans and narratives and any resulting waiver or state plan amendments, about how these changes enhance the availability of integrated services in the specific waiver or state plan, and offset any reductions in previously covered services, in compliance with HCBS criteria or other efforts to increase community integration.

Appendix B: HCBS in Maryland

HCBS are operated under various federal authorities including the 1115 waiver, state plan, as well as 1915(c), 1915(j), and 1915(k). Maryland’s HCBS 1915(c) waivers are operated by two different state agencies: the Department’s Office of Long Term Services and Supports (OLTSS), Office of Medical Benefits Management (MBM), Behavioral Health Administration (BHA), and Developmental Disabilities Administration (DDA), and the Maryland State Department of Education (MSDE). Please see the table below for an overview of HCBS waiver programs in Maryland.

HCBS Programs in Maryland

Program	Authority	Operating State Agency	Program Description
Model Waiver for Medically Fragile Children	1915(c)	OLTSS	The Model Waiver allows medically fragile individuals who would otherwise be hospitalized and are certified as needing either hospital or nursing facility level of care to receive medically necessary and appropriate services in the community.
Community Pathways Waiver	1915(c)	DDA	The Community Pathways Waiver provides comprehensive supports and services to help participants to live more independently in their homes and communities. The program provides a variety of Residential, Meaningful Day, and Support Services that promote community living, including a self-directed service model and traditional, agency-based service model.
Family Supports Waiver	1915(c)	DDA	The Family Supports Waiver helps participants to live more independently in their homes and communities. The program provides a variety of Support Services that promote community living, including a self-directed service model and traditional, agency-based service model.
Community Supports Waiver	1915(c)	DDA	The Community Supports Waiver helps participants to live more independently in their homes and communities. The program provides a variety of Meaningful Day and Support Services that promote community living, including a self-directed service model and traditional, agency-based service model.

Program	Authority	Operating State Agency	Program Description
Waiver for Children with Autism Spectrum Disorder	1915(c)	MSDE	<p>Maryland’s HCBS Waiver for Children with Autism Spectrum Disorder allows eligible children with Autism Spectrum Disorder to receive specific services to support them in their homes and communities.</p> <p>Participants must be children with autism ages 2 through 21 who need an intermediate care facility for the intellectually disabled level of care.</p>
Brain Injury Waiver	1915(c)	BHA	Maryland’s Home and Community-Based Services Waiver for Individuals with Brain Injury provides specialized community-based services to adults with brain injuries.
Medical Day Care Services Waiver	1915(c)	OLTSS	Under this waiver, approved medical day care agencies provide health, social, and related support services in an organized setting to individuals aged 16 years and older who reside in the community and who are assessed to need a nursing facility level of care.
Home and Community-Based Options Waiver	1915(c)	OLTSS	<p>This program provides community-based services and supports that enable older adults and those with physical disabilities to continue living in their own homes or in assisted living facilities.</p> <p>Participants must be 18 years or age or older and meet a nursing facility level of care.</p>
Community First Choice	1915(k)	OLTSS	Community First Choice provides HCBS to older adults and individuals with disabilities who meet an institutional level of care and qualify financially to receive Medicaid in the community.
Community Personal Assistance Services	1915(j)	OLTSS	<p>This state plan program provides in-home personal assistance to older adults and individuals with disabilities.</p> <p>To qualify, an individual must meet the financial criteria to receive Medicaid in the community and require assistance to perform activities of daily living.</p>

Program	Authority	Operating State Agency	Program Description
Increased Community Services (ICS)	1115	OLTSS	Through the ICS Program, the Department continues providing Medicaid State Plan benefits and HCBS to residents ages 18 and over, enabling qualifying individuals to live at home with appropriate supports, as opposed to residing in a nursing facility.
Rare and Expensive Case Management (REM)	1115	MBM	The REM Program is a case-managed fee for service alternative to HealthChoice Managed Care Organization (MCO) participation for recipients with specified rare and expensive conditions.
Program of All-Inclusive Care for the Elderly (PACE)	State Plan	OLTSS	<p>The Program of All-Inclusive Care for the Elderly (PACE) provides comprehensive medical and social services to eligible individuals who live in the community.</p> <p>To participate in PACE, individuals must meet the following criteria: be at least 55 years old; be certified to need a nursing facility level of care; agree to receive all health and long-term care services from the PACE provider; and have income of no more than 300% of the Supplemental Security Income (SSI) benefit level for a household of one person and assets no more than \$2,000.</p>

In collaboration with BHA, the Department also delivers behavioral health services to enrolled participants. This includes services provided under the 1915(i) authority. Based on the State Medicaid Director Letter (SMDL) issued on May 13, 2021, behavioral health services are eligible for the enhanced FMAP.

Appendix C: Original Estimated Funds to Spend and Rate Increases Associated with Spending 75% of HCBS Excess 10% FMAP Funds November 1, 2021 through March 31, 2024

Table 1. HCBS LTSS Funding Estimates

	Total Estimated Funds	Funds Attributable to Rate Increase (75%)
State Funds to Spend	\$60,537,061	\$45,402,795
Total Funds to Spend	\$124,101,307	\$93,075,981
Secondary 10% FMAP State Funds	\$2,119,739	\$1,589,804
Secondary 10% FMAP Total Funds	\$4,345,476	\$3,259,107
Total Primary + Secondary State Funds	\$62,656,799	\$46,992,600
Total Primary + Secondary Total Funds	\$128,446,784	\$96,335,088
Total Rate Increase Percentage		5.2%

Table 2. BH Funding Estimates

	Total Estimated Funds	Funds Attributable to Rate Increase (75%)
State Funds to Spend	\$68,112,729	\$51,084,547
Total Funds to Spend	\$181,715,680	\$136,286,760
Secondary 10% FMAP State Funds	\$2,655,860	\$1,991,895
Secondary 10% FMAP Total Funds	\$7,085,481	\$5,314,111

	Total Estimated Funds	Funds Attributable to Rate Increase (75%)
Total Primary + Secondary State Funds	\$70,768,589	\$53,076,442
Total Primary + Secondary Total Funds	\$188,801,160	\$141,600,870
Total Rate Percentage Increase		5.4%