



COMMONWEALTH of VIRGINIA

Office of the Governor

Daniel Carey, MD
Secretary of Health and Human Resources

March 26, 2021

Todd McMillion
Director
Department of Health and Human Services
Centers for Medicare and Medicaid Services
233 North Michigan Ave., Suite 600
Chicago, Illinois 60601

Dear Mr. McMillion:

Attached for your review and approval is amendment 21-007, entitled "Tribal Health Clinic" to the Plan for Medical Assistance for the Commonwealth. I request that your office approve this change as quickly as possible.

Sincerely,

A handwritten signature in black ink that reads "Daniel Carey".

Daniel Carey, MD, MHCM

Attachment

cc: Karen Kimsey, Director, Department of Medical Assistance Services
CMS, Region III

Transmittal Summary

SPA 21-007

I. IDENTIFICATION INFORMATION

Title of Amendment: Tribal Health Center

II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Under section 1905(b) of the Social Security Act, the federal government is required to match state expenditures at the Federal Medical Assistance Percentage (FMAP) rate, which is 100 percent for state expenditures on behalf of American Indian/Alaskan Native Medicaid beneficiaries for covered services “received through” an Indian Health Service facility whether operated by the Indian Health Service or by a Tribe or Tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).

Purpose: This SPA includes language allowing the Upper Mattaponi Tribe to collect Medicaid payment for health care services provided through a new Tribal Health Clinic (THC).

Substance and Analysis: The section of the State Plan that is affected by this amendment is “Methods and Standards for Establishing Payment Rates – Other Types of Care.”

The Upper Mattaponi Tribe has established a Tribal Health Clinic (THC) to meet the primary care health needs of Tribal members, including those enrolled in Virginia Medicaid. Federal law requires DMAS to file a SPA to recognize and reimburse THCs as Medicaid providers. The THC will be enrolled as a Federally Qualified Health Center and will be reimbursed for services to Medicaid members at a rate set annually by the federal government. The Centers for Medicare and Medicaid Services will cover 100% of DMAS’ payments to the Upper Mattaponi THC for services to Medicaid members.

Impact: There is no anticipated increase or decrease in expenditures.

Tribal Notice: Please see Attachment A-1 and A-2.

Prior Public Notice: Please see Attachment B-1.

Public Comments and Agency Analysis: Please see Attachment B-2.

ATTACHMENT A-1

McClellan, Emily <emily.mcclellan@dmas.virginia.gov>

Tribal Notice re: Tribal Health Clinic

McClellan, Emily <emily.mcclellan@dmas.virginia.gov>

Wed, Feb 17, 2021 at 3:48 PM

To: Dean Branham <TribalOffice@monacannation.com>, "G. Anne Richardson" <chiefannerich@aol.com>, Gerald Stewart <wasandson@cox.net>, Pam Thompson <Pamelathompson4@yahoo.com>, Rappahannock Tribe <rappahannocktrib@aol.com>, Reginald Stewart <regstew007@gmail.com>, Robert Gray <robert.gray@pamunkey.org>, Rufus Elliott <tribaladmin@monacannation.com>, Samuel Bass <samflyingeagle48@yahoo.com>, Stephen Adkins <chiefstephenadkins@gmail.com>, "W. Frank Adams" <WFrankAdams@verizon.net>, bradbybrown@gmail.com, heather.hendrix@ihs.gov, "Garrett, Tabitha (IHS/NAS/RIC)" <tabitha.garrett@ihs.gov>, diane.garrison@ihs.gov
Cc: Brian McCormick <brian.mccormick@dmas.virginia.gov>

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid Director Karen Kimsey indicating that the Dept. of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services. The SPA will allow a new Tribal Health Clinic to receive Medicaid reimbursement.

If you would like a copy of the SPA documents or proposed text changes, or if you have any questions, please let us know.

Thank you! -- Emily McClellan

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Emily McClellan
Regulatory Supervisor
Policy Planning and Innovation Division
Virginia Department of Medical Assistance Services
600 East Broad Street
Richmond, VA 23219
(804) 371-4300
www.dmas.virginia.gov



 Tribal Notice Ltr THC SPA 2-17-21.pdf
297K



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

KAREN KIMSEY
DIRECTOR

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
800/343-0634 (TDD)
www.dmas.virginia.gov

February 17, 2021

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment related to establishment of the Upper Mattaponi Tribal Health Clinic

Dear Tribal Leader and Indian Health Programs:

This letter is to notify you that the Department of Medical Assistance Services (DMAS) is planning to amend the Virginia State Plan for Medical Assistance with the Centers for Medicare and Medicaid Services (CMS). Specifically, DMAS is providing you notice about a State Plan Amendment (SPA) required to enroll and reimburse the Upper Mattaponi Tribal Health Clinic as a Medicaid provider.

The Upper Mattaponi Tribe has established a Tribal Health Clinic (THC) to meet the primary care health needs of Tribal members, including those enrolled in Virginia Medicaid. Federal law requires DMAS to file a SPA to recognize and reimburse THCs as Medicaid providers. The THC will be enrolled as a Federally Qualified Health Center and will be reimbursed for services to Medicaid members at a rate set annually by the federal government. The Centers for Medicare and Medicaid Services will cover 100% of DMAS' payments to the Upper Mattaponi THC for services to Medicaid members.

The tribal comment period for this SPA is open through March 19, 2021. You may submit your comments directly to Emily McClellan, DMAS Policy Division, by phone (804) 371-4300, or via email: Emily.McClellan@dmas.virginia.gov Finally, if you prefer regular mail you may send your comments or questions to:

Virginia Department of Medical Assistance
Services Medicaid Disaster SPA, Tribal Comment
Attn: Emily McClellan
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,
A handwritten signature in blue ink that reads "Karen Kimsey".

Karen Kimsey

ATTACHMENT B-1

Virginia.gov Agencies | Governor



Agency

Department of Medical Assistance Services

Board

Board of Medical Assistance Services

[Edit Notice](#)

General Notice

Public Notice - Intent to Amend State Plan - Tribal Health Clinic

Date Posted: 2/23/2021

Expiration Date: 6/30/2021

Submitted to Registrar for publication: YES

[30 Day Comment Forum](#) is underway. Began on 2/23/2021 and will end on 3/25/2021

LEGAL NOTICE
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
NOTICE OF INTENT TO AMEND

(Pursuant to §1902(a)(13) of the Act (U.S.C. 1396a(a)(13))

THE VIRGINIA STATE PLAN FOR MEDICAL ASSISTANCE

This Notice was posted on February 23, 2021

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates — Other Types of Care (12 VAC 30-80).

This notice is intended to satisfy the requirements of 42 C.F.R. § 447.205 and of § 1902(a)(13) of the Social Security Act, 42 U.S.C. § 1396a(a)(13). A copy of this notice is available for public review from Emily McClellan, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, or via e-mail at: Emily.McClellan@dmass.virginia.gov.

DMAS is specifically soliciting input from stakeholders, providers and beneficiaries, on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Ms. McClellan and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Town Hall public comment forum attached to this notice.

This notice is available for public review on the Regulatory Town Hall (www.townhall.com), on the General Notices page, found at: <https://townhall.virginia.gov/L/generalnotice.cfm>

The Upper Mattaponi Tribe has established a Tribal Health Clinic (THC) to meet the primary care health needs of Tribal members, including those enrolled in Virginia Medicaid. Federal law requires DMAS to file a SPA to recognize and reimburse THCs as Medicaid providers. The THC will be enrolled as a Federally Qualified Health Center and will be reimbursed for services to Medicaid members at a rate set annually by the federal government. The Centers for Medicare and Medicaid Services will cover 100% of DMAS' payments to the Upper Mattaponi THC for services to Medicaid members.

There is no expected increase in annual aggregate expenditures.

ATTACHMENT B-2

Virginia.gov Agencies | Governor



Agency Department of Medical Assistance Services

Board Board of Medical Assistance Services

Public Comment ForumGeneral Notice: **Public Notice - Intent to Amend State Plan - Tribal Health Clinic**

CLOSED Opened on 2/23/2021 and Ended on 3/25/2021

LEGAL NOTICE

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

NOTICE OF INTENT TO AMEND

(Pursuant to §1902(a)(13) of the Act (U.S.C. 1396a(a)(13))

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..... [read the full general notice](#)[More about public comment forums and policies](#)

No Comments were received for this forum.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE- OTHER TYPES OF CARE

2. Supplemental Payments for FQHCs/RHCs selecting the PPS methodology. FQHCs/RHCs that provide services under a contract with a Medicaid Managed Care Entity (MCE) will receive quarterly state supplemental payments for the cost of furnishing such services that are an estimate of the difference between the payments the FQHC/RHC receives from MCEs and the payments the FQHC/RHC would have received under the BIPA PPS methodology. At the end of each FQHCs/RHCs fiscal year, the total amount of supplemental and MCE payments received by the FQHC/RHC will be reviewed against the amount that the actual number of visits provided under the FQHCs/RHCs contract with MCE would have yielded under the PPS. If the PPS amount exceeds the total amount of supplemental and MCE payments, the FQHC/RHC will be paid the difference between the PPS amount calculated using the actual number of visits and the total amount of supplemental and MCE payments received by the FQHC/RHC. If the PPS amount is less than the total amount of supplemental and MCE payments, the FQHC/RHC will refund to DMAS the difference between the PPS amount calculated using the actual number of visits, and the total amount of supplemental and MCE payments received by the FQHC/RHC.

D. These providers shall be subject to the same cost reporting submission requirements as specified in Attachment 4.19-B, page 1.1 (12VAC30-80-20) for cost-based reimbursed providers.

~~§6. Fee for service providers. (12 VAC 30 80 30)~~

~~A. Payment for the following services, except for physician services, shall be the lower of the State agency fee schedule (Supplement 4 has information about the State agency fee schedule except as specified below) or actual charge (charge to the general public). Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private individual practitioners. Fee schedules and any annual /periodic adjustments to the fee schedule are published on the DMAS website at the following web address: <http://www.dmas.virginia.gov>:~~

- ~~1. Physicians' services. Payment for physician services shall be the lower of the State agency fee schedule or actual charge (charge to the general public).~~

Next page is 5 of 15

TN No. 21-007

Approval Date _____

Effective Date 1/1/21

Supersedes

TN No. 16-008

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE- OTHER TYPES OF CARE

REIMBURSEMENT FOR INDIAN HEALTH SERVICE TRIBAL 638 HEALTH FACILITIES**A. Reimbursement for Tribal Health Clinics**

1. Services provided by or through facilities of the Indian Health Services (IHS) which includes, at the option of the tribe, facilities operated by a tribe or tribal organization and funded by Title I or V of the Indian Self Determination and Education Assistance Act, also known as Tribal 638 facilities, are paid at the applicable IHS OMB rate published in the Federal Register or Federal Register Notices by IHS.

2. The most current published IHS OMB outpatient per visit rate, also known as the outpatient all-inclusive rate, is paid for up to five (5) outpatient visits per beneficiary per calendar day for professional services. An outpatient visit is defined as a face-to-face or telemedicine contact between any health care professional, at or through the IHS facility as described above, authorized to provide services under the State Plan and a beneficiary for the provision of Title XIX defined services, as documented in the beneficiary's medical record.

3. To be included in the outpatient per visit rate are certain pharmaceutical/drugs, dental services, rehabilitative services, behavioral health services, any and all ancillary services, and emergency room services provided on-site and medical supplies incidental to the services provided to the beneficiary.

B. Payments to Tribal 638 Programs

Virginia Medicaid reimburses Tribal 638 facilities in accordance with the most recently published Federal Register. Encounters/visits are limited to healthcare professionals as approved under the Virginia Medicaid State Plan. A tribal health program selecting to enroll as a FQHC and agreeing to an alternate payment methodology (APM) will be paid using the APM.

C. Alternative Payment Methodology for Tribal Facilities Recognized as FQHCs

1. Outpatient health programs or facilities operated by a Tribe or Tribal organization that choose to be recognized as FQHCs in accordance with Section 1905 (I)(2)(B) of the Social Security Act and the Indian Self-Determination Act (Public Law 93-638) will be paid using an alternative payment methodology (APM) for services, that is the published, all-inclusive rate (AIR). The APM/AIR rate is paid for up to five face-to-face encounters/visits per recipient per day.

2. Virginia Medicaid will establish a Prospective Payment System (PPS) methodology for the Tribal facility so that the Agency can determine on an annual basis that the published, all-inclusive rate results in payment to the center or clinic of an amount which is at least equal to the PPS payment rate. The PPS rate will be established by reference to the current rate applicable to one or more non-tribal FQHCs in the same or adjacent areas with similar caseloads. If such a non-tribal FQHC is not available, the PPS rate will be established by reference to the current rate applicable to

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TN No. New Page

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE- OTHER TYPES OF CARE

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TN No. 21-007

Approval Date _____

Effective Date 1/1/21

Supersedes

TN No. New Page

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE- OTHER TYPES OF CARE

§6. Fee-for-service providers. (12 VAC 30-80-30)

A. Payment for the following services, except for physician services, shall be the lower of the State agency fee schedule (Supplement 4 has information about the State agency fee schedule except as specified below) or actual charge (charge to the general public). Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private individual practitioners. Fee schedules and any annual /periodic adjustments to the fee schedule are published on the DMAS website at the following web address: <http://www.dmas.virginia.gov> :

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TN No. New Page

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 1 0 0 7

2. STATE

Virginia

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

1/1/2021

5. TYPE OF PLAN MATERIAL (Check One)

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION

1905(b) of the Social Security Act

7. FEDERAL BUDGET IMPACT

a. FFY 2021 \$ 0
b. FFY 2022 \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.1B, revised page 4.8, new pages 4.9, 4.10, and 4.11

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Same as box #8.

10. SUBJECT OF AMENDMENT

Tribal Health Clinic

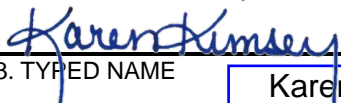
11. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED

Secretary of Health and Human Resources

12. SIGNATURE OF STATE AGENCY OFFICIAL



13. TYPED NAME

Karen Kimsey

14. TITLE

Director

15. DATE SUBMITTED

3/26/2021

16. RETURN TO

Dept. of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Regulatory Coordinator

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

22. TITLE

23. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE- OTHER TYPES OF CARE

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TN No. 16-008

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE- OTHER TYPES OF CARE**REIMBURSEMENT FOR INDIAN HEALTH SERVICE TRIBAL 638 HEALTH FACILITIES****A. Reimbursement for Tribal Health Clinics**

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2. The most current published IHS OMB outpatient per visit rate, also known as the outpatient all-inclusive rate, is paid for up to five (5) outpatient visits per beneficiary per calendar day for professional services. An outpatient visit is defined as a face-to-face or telemedicine contact between any health care professional, at or through the IHS facility as described above, authorized to provide services under the State Plan and a beneficiary for the provision of Title XIX defined services, as documented in the beneficiary's medical record.

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