



COMMONWEALTH of VIRGINIA

Office of the Governor

John E. Littel
Secretary of Health and Human Resources

July 11, 2023

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 23-016, entitled "Supplemental Payments for Services Provided by Physicians at Freestanding Children's Hospitals" 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, appearing to read "John E. Littel".

John E. Littel

Attachment

cc: Cheryl J. Roberts, Director, Department of Medical Assistance Services
CMS, Region III

Transmittal Summary

SPA 23-016

I. IDENTIFICATION INFORMATION

Title of Amendment: Supplemental Payments for Services Provided by Physicians at Freestanding Children's Hospitals

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.

Purpose: In accordance with the Medicaid State Plan (Supplement 6 to Attachment 4.19-B) and 12VAC30-80-300, supplemental payments for services provided by physicians at freestanding children's hospitals must be calculated using the Medicare equivalent of the average commercial rate (ACR) methodology prescribed by CMS. DMAS is required to recalculate the ACR every three years. The last ACR is dated July 1, 2020, and CMS requires DMAS to submit a new ACR calculation effective July 1, 2023.

After performing calculations based on data provided by the Virginia freestanding children's hospitals, DMAS determined that the ACR must be increased from 178% of Medicare to 191% of Medicare.

Substance and Analysis: The section of the State Plan that is affected by this amendment is "Methods and Standards for Establishing Payment Rate-Other Types of Care"

Impact: The anticipated federal expenditures are \$391,768 in federal fiscal year (FFY) 2023 and \$1,521,225 in FFY 2024.

Tribal Notice: Please see attached.

Prior Public Notice: See Attached.

Public Comments and Agency Analysis: No comments were received.

Tribal Notice – Supplemental Payments for Services Provided by Physicians at Freestanding Children’s Hospitals

Lee, Meredith (DMAS)

Wed 6/21/2023 11:09 AM

To: TribalOffice@MonacanNation.com <TribalOffice@MonacanNation.com>; Ann Richardson <chiefannerich@aol.com>; Gerald Stewart <jerry.stewart@cit-ed.org>; pamelathompson4@yahoo.com (pamelathompson4@yahoo.com) <pamelathompson4@yahoo.com>; rappahannocktrib@aol.com (rappahannocktrib@aol.com) <rappahannocktrib@aol.com>; Reggie Stewart <regstew007@gmail.com>; Gray, Robert <robert.gray@pamunkey.org>; tribaladmin <tribaladmin@monacannation.com>; Sam Bass (samflyingeagle48@yahoo.com) <samflyingeagle48@yahoo.com>; chiefstephenadkins@gmail.com (chiefstephenadkins@gmail.com) <chiefstephenadkins@gmail.com>; Frank Adams <Board.R1D@DGIF.VIRGINIA.GOV>; bradbybrown@gmail.com <bradbybrown@gmail.com>; tabitha.garrett@ihs.gov <tabitha.garrett@ihs.gov>; Kara.Kearns@ihs.gov <Kara.Kearns@ihs.gov>; Mia.Eubank@ihs.gov <Mia.Eubank@ihs.gov>

 1 attachments (167 KB)

Tribal Notice Letter, signed.pdf;

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid Director, Cheryl Roberts, indicating that the Department of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services. This SPA will allow DMAS to increase supplemental payments for services provided by physicians at freestanding children’s hospitals calculated using the Medicare equivalent of the average commercial rate (ACR) methodology prescribed by CMS. DMAS is required to recalculate the ACR every three years. The last ACR is dated July 1, 2020, and CMS requires DMAS to submit a new ACR calculation effective July 1, 2023.

After performing calculations based on data provided by the Virginia freestanding children’s hospitals, DMAS determined that the ACR must be increased from 178% of Medicare to 191% of Medicare.

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! -- Meredith Lee

Meredith Lee
Division of Policy, Regulation, and Member Engagement
Policy, Regulations, and Manuals Supervisor
Department of Medical Assistance Services
Hours: 6:00 am - 4:30 pm (Monday-Thursday); out of the office on Fridays
meredith.lee@dmas.virginia.gov
(804) 371-0552



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

CHERYL J. ROBERTS
DIRECTOR

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

June 21, 2023

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment related to Supplemental Payments for Services Provided by Physicians at Freestanding Children’s Hospitals.

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) that the Agency will file with CMS to increase supplemental payments for services provided by physicians at freestanding children’s hospitals calculated using the Medicare equivalent of the average commercial rate (ACR) methodology prescribed by CMS. DMAS is required to recalculate the ACR every three years. The last ACR is dated July 1, 2020, and CMS requires DMAS to submit a new ACR calculation effective July 1, 2023.

After performing calculations based on data provided by the Virginia freestanding children’s hospitals, DMAS determined that the ACR must be increased from 178% of Medicare to 191% of Medicare.

The tribal comment period for this SPA is open through July 21, 2023. You may submit your comments directly to Meredith Lee, DMAS Policy, Regulation, and Member Engagement Division, by phone (804) 371-0552, or via email: Meredith.Lee@dmas.virginia.gov. Finally, if you prefer regular mail you may send your comments or questions to:

Virginia Department of Medical Assistance Services
Attn: Meredith Lee
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl J. Roberts".

Cheryl J. Roberts
Director

**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 June 21, 2023

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 Meredith Lee, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, or via e-mail at: Meredith.Lee@dmas.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 Meredith Lee 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 (<https://townhall.virginia.gov>) on the General Notices page, found at: <https://townhall.virginia.gov/L/generalnotice.cfm>

Methods & Standards for Establishing Payment Rates-Other Types of Care (12 VAC 30-80)

In accordance with the Virginia Medicaid State Plan (Supplement 6 to Attachment 4.19-B) and 12VAC30-80-300, the state plan is being amended to update the average commercial rate calculation for supplemental payments for services provided by physicians at Virginia's freestanding children's hospitals effective July 1, 2023. The updated average commercial rate (ACR) percentage of Medicare will be 191%.

The anticipated expenditures are \$345,331 in state general funds and \$391,768 in federal funds in federal fiscal year 2023, and \$1,427,172 in state general funds and \$1,521,225 in federal funds in federal fiscal year 2024.



Find a Commonwealth Resource



Public comment forums

Make your voice heard! Public comment forums allow all Virginia's citizens to participate in making and changing our state regulations.

[See our public comment policy](#)

Currently showing **5** comment forums closed within the last 21 days for the Department of Medical Assistance Services.

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[Guidance Document Forums \(2\)](#)

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General Notices (3)

Board of Medical Assistance Services

[View Comments](#)

Public Notice - Intent to Amend State Plan - Supplemental Payments for Services Provided by Physicians at Freestanding Children's Hospitals

[General Notice](#)

Public Notice - Intent to Amend State Plan - Supplemental Payments for Services Provided by Physicians at Freestanding Children's Hospitals

Closed: 6/30/23 0 comments

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

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

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

17.5 Supplemental payment for services provided by physicians at Virginia freestanding children's hospitals.

1. In addition to payments for physician services specified elsewhere in this State Plan, DMAS provides supplemental payments to Virginia freestanding children's hospital physicians providing services at freestanding children's hospitals with greater than 50% Medicaid inpatient utilization in state fiscal year 2009 for furnished services provided on or after July 1, 2011. A freestanding children's hospital physician is a member of a practice group (i) organized by or under control of a qualifying Virginia freestanding children's hospital, or (ii) who has entered into contractual agreements for provision of physician services at the qualifying Virginia freestanding children's hospital and that is designated in writing by the Virginia freestanding children's hospital as a practice plan for the quarter for which the supplemental payment is made subject to DMAS approval. The freestanding children's hospital physicians also must have entered into contractual agreements with the practice plan for the assignment of payments in accordance with 42 CFR § 447.10.

2. ~~Effective July 1, 2011, the supplemental payment amount for freestanding children's hospital physician services shall be the difference between the Medicaid payments otherwise made for freestanding children's hospital physician services and 143% of Medicare rates as defined in the supplemental payment calculation described in the Medicare Equivalent of the Average Commercial Rate methodology (See Supplement 6 to Attachment 4.19 B), subject to the following reduction. Final payments shall be reduced on a pro-rated basis so that total payments for freestanding children's hospital physician services are \$400,000 less annually than would be calculated based on the formula in the previous sentence. Effective July 1, 2015, the supplemental payment amount for freestanding children's hospital physician services shall be the difference between the Medicaid payments otherwise made for freestanding children's hospital physician services and 178% of Medicare rates as defined in the supplemental payment calculation for Type I physician services. Payments shall be made on the same schedule as Type I physicians. Effective July 1, 2023, the supplemental payment amount for freestanding children's hospital physician services shall be the difference between the Medicaid payments otherwise made for freestanding children's hospital physician services and 191% of Medicare rates as defined in the supplemental payment calculation for Type I physician services. Payments shall be made on the same schedule as Type I physicians.~~

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

1. TRANSMITTAL NUMBER ____ _	2. STATE ____
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3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI
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TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION
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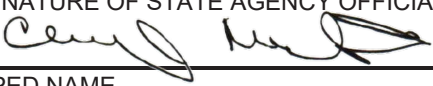
6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY _____ \$ _____
b. FFY _____ \$ _____

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

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)	
GOVERNOR'S OFFICE REPORTED NO COMMENT	OTHER, AS SPECIFIED:
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	Secretary of Health and Human Resources
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	

11. SIGNATURE OF STATE AGENCY OFFICIAL 
12. TYPED NAME
13. TITLE
14. DATE SUBMITTED

15. RETURN TO

FOR CMS USE ONLY	
16. DATE RECEIVED	17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED	
18. EFFECTIVE DATE OF APPROVED MATERIAL	19. SIGNATURE OF APPROVING OFFICIAL
20. TYPED NAME OF APPROVING OFFICIAL	21. TITLE OF APPROVING OFFICIAL

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE-
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1. In addition to payments for physician services specified elsewhere in this State Plan, DMAS provides supplemental payments to Virginia freestanding children's hospital physicians providing services at freestanding children's hospitals with greater than 50% Medicaid inpatient utilization in state fiscal year 2009 for furnished services provided on or after July 1, 2011. A freestanding children's hospital physician is a member of a practice group (i) organized by or under control of a qualifying Virginia freestanding children's hospital, or (ii) who has entered into contractual agreements for provision of physician services at the qualifying Virginia freestanding children's hospital and that is designated in writing by the Virginia freestanding children's hospital as a practice plan for the quarter for which the supplemental payment is made subject to DMAS approval. The freestanding children's hospital physicians also must have entered into contractual agreements with the practice plan for the assignment of payments in accordance with 42 CFR § 447.10.

2. Effective July 1, 2023, the supplemental payment amount for freestanding children's hospital physician services shall be the difference between the Medicaid payments otherwise made for freestanding children's hospital physician services and 191% of Medicare rates as defined in the supplemental payment calculation for Type I physician services. Payments shall be made on the same schedule as Type I physicians.

TN No. 23-016

Approval Date _____

Effective Date 07/01/23

Supersedes

TN No. 15-008