



# COMMONWEALTH of VIRGINIA

## Office of the Governor

Daniel Carey, MD  
Secretary of Health and Human Resources

May 20, 2021

Francis McCullough, Associate Regional Administrator  
Centers for Medicare & Medicaid Services  
801 Market Street, Suite 9400  
Philadelphia, PA 19107-3134

Dear Mr. McCullough:

Attached for your review and approval is amendment 21-020, entitled "DSH Changes for 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 that reads "Daniel Carey".

Daniel Carey, MD, MHCM

Attachment

cc: Karen Kimsey, Director, Department of Medical Assistance Services



# 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

DECISION BRIEF FOR:  
The Honorable Daniel Carey, M.D.  
Secretary of Health and Human Resources

SUBJECT: AMENDMENT 21-020 to the PLAN for MEDICAL ASSISTANCE, entitled "DSH Changes for Children's Hospitals"

ACTION NEEDED  
BY 6/6/2021  
RETURN TO DMAS

### SUMMARY

1. **REQUEST:** The Department of Medical Assistance Services requests the approval of this Plan amendment TN No. 21-020 – DSH Changes for Children's Hospitals.
2. **RECOMMENDATION:** Recommend approval of this State Plan amendment. The Agency intends to forward this SPA to the Centers for Medicare and Medicaid Services (CMS) Regional Office no later than June 7, 2021.

Karen Kimsey 5/6/2021  
 Karen Kimsey, Director Date

3. **SECRETARY'S ACTION:** Secretary of Health and Human Resources

Approve  Approve w/ Modifications \_\_\_\_\_ Deny \_\_\_\_\_

Daniel Carey 5/21/21  
 Daniel Carey, M.D. Date

## DISCUSSION

4. BACKGROUND: The section of the State Plan for Medical Assistance that is affected by this action is entitled “Methods and Standards for Establishing Payment Rates — Inpatient Services”.

This state plan amendment proposes to *amend Supplemental Payments for Freestanding Children’s Hospitals*. DMAS seeks to create additional hospital supplemental payments for freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 to replace payments that have been reduced due to the federal regulation on the definition of uncompensated care costs, effective June 2, 2017.

5. AUTHORITY TO ACT: 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.
6. FISCAL/BUDGETARY IMPACT: There is no fiscal or budgetary impact.
7. RECOMMENDATION: Recommend approval of this State Plan amendment. This amendment needs to be forwarded to the Centers for Medicare and Medicaid Services Regional Office no later than June 7, 2021.
8. REFERENCES:
  1. Social Security Act, Title XIX.
  2. Code of Federal Regulations, Part 430 to End of Title 42.
  3. Code of Virginia, § 32.1-325.

## Transmittal Summary

SPA 21-020

### I. IDENTIFICATION INFORMATION

Title of Amendment: DSH Changes for 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.

These changes are required by the 2020 Appropriations Act, Item 313.III(2).

Purpose: DMAS is requesting changes to the *Methods and Standards for Establishing Payment Rates — Inpatient Services* section. DMAS seeks to create additional hospital supplemental payments for freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 to replace payments that have been reduced due to the federal regulation on the definition of uncompensated care costs, effective June 2, 2017.

Substance and Analysis: These new hospital supplemental payments, for freestanding children's hospitals, shall equal what would have been paid to the freestanding children's hospitals under the current disproportionate share hospital (DSH) formula without regard to the uncompensated care cost limit. These additional hospital supplemental payments shall take precedence over supplemental payments for private acute care hospitals. If the federal regulation is voided, DMAS shall continue DSH payments to the impacted hospitals and adjust the additional hospital supplemental payments authorized in this paragraph accordingly.

Impact: None

Prior Public Notice: See Attachment A1.

Public Comments and Agency Analysis: Not applicable.

Tribal Notice: See Attachment A2.

## Attachment A1

**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 [date]**

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 — Inpatient Hospital, 12 VAC 30-70*.

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@dmas.virginia.gov](mailto:Emily.McClellan@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 Emily 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](http://www.townhall.com)), on the General Notices page, found at: <https://townhall.virginia.gov/L/generalnotice.cfm>

In accordance with the 2021 Appropriations Act, Item 313.ZZ, DMAS will be making the following changes:

**Methods & Standards for Establishing Payment Rates-Inpatient Hospital (12 VAC 30-70)**

The state plan is being revised to create additional hospital supplemental payments for freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 to replace payments that have been reduced due to the federal regulation on the definition of uncompensated care costs effective June 2, 2017. These new payments shall equal what would have been paid to the freestanding children's hospitals under the current disproportionate share hospital (DSH) formula without regard to the uncompensated care cost limit. These additional hospital supplemental payments shall take precedence over supplemental payments for private acute care hospitals. If the federal regulation is voided, DMAS shall continue DSH payments to the impacted hospitals and adjust the additional hospital supplemental payments authorized in this paragraph accordingly.

**There is no expected increase or decrease in annual aggregate expenditures related to this change.**

## Attachment A2



# 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](http://www.dmas.virginia.gov)

May 6, 2021

SUBJECT: Notice of Opportunity for Tribal Comment: – State Plan Amendment related to:  
DSH Changes for 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 the CMS entitled *DSH Changes for Children’s Hospitals*.

- DSH Changes for Children’s Hospitals: This SPA will allow the Virginia Medicaid program to create additional hospital supplemental payments for freestanding children’s hospitals with greater than 50 percent Medicaid utilization in 2009 to replace payments that have been reduced due to the federal regulation on the definition of uncompensated care costs, effective June 2, 2017. These new payments shall equal what would have been paid to the freestanding children’s hospitals under the current disproportionate share hospital (DSH) formula without regard to the uncompensated care cost limit. These additional hospital supplemental payments shall take precedence over supplemental payments for private acute care hospitals. If the federal regulation is voided, DMAS shall continue DSH payments to the impacted hospitals and adjust the additional hospital supplemental payments authorized in this paragraph accordingly.

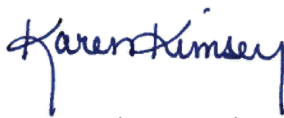
Please contact us if you would like to see the text changes or documents associated with this SPA.

The tribal comment period for this SPA is open through June 5, 2021. You may submit your comments directly to Jimeequa Williams, DMAS Policy Division, by phone (804) 225-3508, or via email: [Jimeequa.Williams@dmas.virginia.gov](mailto:Jimeequa.Williams@dmas.virginia.gov). Finally, if you prefer regular mail, you may send your comments or questions to:

Virginia Department of Medical Assistance Services  
Attn: Jimiequa Williams  
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". The signature is written in a cursive style with a prominent loop at the end of the last name.

Karen Kimsey, Director  
Va. Department of Medical Assistance Services

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

1. TRANSMITTAL NUMBER

2 1 0 2 0

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

5/15/2021

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

42 CFR 447

7. FEDERAL BUDGET IMPACT

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

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-A, revised page 17.3

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

Same as box #8.

10. SUBJECT OF AMENDMENT

DSH Changes for Children's Hospitals

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

*Karen Kimsey*

13. TYPED NAME

Karen Kimsey

14. TITLE

Director

15. DATE SUBMITTED

5/18/2021

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 RATES-INPATIENT SERVICES

---

~~THIS PAGE IS INTENTIONALLY LEFT BLANK~~

Supplemental Payments for Freestanding Children's Hospitals (12VAC 30-70-427)

Effective May 15, 2021, freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 will receive additional hospital supplemental payments equal to what would have been paid under the current disproportionate share hospital (DSH) formula, without regard to the uncompensated care cost limit, prior to reduced payments due to the federal regulation defining uncompensated care costs effective June 2, 2017. These additional hospital supplemental payments shall take precedence over supplemental payments for private acute care hospitals. If the federal regulation is voided, DMAS shall continue DSH payments to the impacted hospitals and adjust the additional hospital supplemental payments authorized in this paragraph accordingly. The department shall have the authority to implement these changes effective May 15, 2021, and prior to completion of any regulatory action to effect such changes.

---

TN No. 21-020  
Supersedes  
TN No. 19-004

Approval Date \_\_\_\_\_

Effective Date 05/15/21

HCFA ID:

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT**

State of VIRGINIA

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES-INPATIENT SERVICES

Supplemental Payments for Freestanding Children's Hospitals (12VAC 30-70-427)

Effective May 15, 2021, freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 will receive additional hospital supplemental payments equal to what would have been paid under the current disproportionate share hospital (DSH) formula, without regard to the uncompensated care cost limit, prior to reduced payments due to the federal regulation defining uncompensated care costs effective June 2, 2017. These additional hospital supplemental payments shall take precedence over supplemental payments for private acute care hospitals. If the federal regulation is voided, DMAS shall continue DSH payments to the impacted hospitals and adjust the additional hospital supplemental payments authorized in this paragraph accordingly. The department shall have the authority to implement these changes effective May 15, 2021, and prior to completion of any regulatory action to effect such changes.

TN No. 21-020

Approval Date \_\_\_\_\_

Effective Date 05/15/21

Supersedes

TN No. 19-004

HCFA ID: