

Centers for Medicare & Medicaid Services
Long Term Services and Support Open Door Forum

Moderator: Jill Darling

February 9, 2022

2:00 pm ET

Coordinator: Thank you for standing by. Today's call will now begin. All lines are on a listen-only mode until the question-and-answer session. At that time, if you would like to ask a question, you would press Star 1 and record your name. If you need to withdraw your question, you would press Star 2.

Today's call is also being recorded. If there are any objections, you may disconnect. And I will now turn the call over to Jill Darling. Thank you. You may begin.

Jill Darling: Great. Thank you, (Shanida). Good morning, and good afternoon, everyone. I'm Jill Darling in the CMS Office of Communications, and welcome to today's Long-Term Services and Supports Open Door Forum.

Before we get into the agenda, I have one brief announcement. This Open Door Forum is open to everyone, but if you are a member of the press, you may listen in, but please refrain from asking questions during the Q&A portion of the call.

If you do have any inquiries, please contact CMS at press@cms.hhs.gov. And I'd like to hand the call over to Melissa Harris, who is the Deputy Director of the Disabled and Elderly Health Programs Group in the Center of Medicaid and CHIP Services. Melissa?

Melissa Harris: Thank you, Jill, and it's really my pleasure to be with you all today to talk about a couple of really important topics and some exciting opportunities in the Medicaid program. We're going to be flipping the order of the agenda. So, we're first going to be talking about some topics and presentations that CMS made at a recent HCBS Conference that are available for you to review.

And then, we'll be talking about implementation of a really exciting provision in the American Rescue Plan that authorized some additional funding for Home and Community-Based Services. And then, we're going to have a presentation on some new guidance CMS issued on an upcoming benefit in the Medicaid program that provides reimbursement for mobile crisis intervention services. And so, we're really looking forward to spending this time with you today.

So, the first topic that we're going to talk about is really a mixture of things that are happening in the space of Home and Community-Based Services. We know that we are quite cognizant every single day that we are in the last 13 or so months of the transition period associated with the Home and Community Based Settings Regulation transition period.

And so, we are head down, working with our state partners to provide the necessary technical assistance to facilitate states being in compliance with the regulation by March 17th, 2023, which is the end of the transition period. We have work to do between now and then, and we will be reaching out to our state partners and keeping you all apprised of progress as the remaining time in the transition period passes.

But we are as excited as ever about the possibilities of the Home and Community Based Settings Regulation, and it continues to occupy a place of daily prominence in the work of the Disabled and Elderly Health Programs

Group. We are also in a significant partnership with colleagues in the Administration for Community Living, and they are really invested in the day-to-day implementation of the regulation, and in the ultimately successful implementation of the regulation.

So, we're quite grateful for their partnership, and we will be keeping you all apprised, as I said, as the transition period winds down, as to the progress that we are making nationally, and how we see next steps playing out.

As always, we welcome your involvement as stakeholders, as states are putting information out for public comment on their statewide transition plans and on individual settings that might be coming to CMS for a heightened scrutiny review.

We can't overstate the importance of public comment that states receive on how their implementation of the regulation is being met on the ground. So, we appreciate your partnership to date, and appreciate it in advance over these next several months.

We're also doing a lot of work behind the scenes to advance the quality of Home and Community-Based Services. You all may remember that we issued a request for information on a recommended measure set around Home and Community-Based Services in 2020, and we have been steadily analyzing the responses that have come in to that request for information.

And we hope to be able to continue the public conversation around a recommended measure set in the coming months, but wanted you to know that this is still a really high priority for us as we continue to want to elevate Home And Community-Based Services to their rightful role of prominence in the long-term care system, and at the same time, recognize the need to make sure

those services are not only meeting the needs of participants, but doing so in a way that advances their goals of community integration and meets their service needs.

We covered information on these topics and many more in a December 2021 conference that many of you might be familiar with. It's the annual HCBS conference sponsored by ADvancing States. This last year, CMS continued to have a virtual presence at the conference, and we presented about a dozen presentations on various topics, everything from the settings rule, to HCBS Quality, to electronic visit verification, to the role of the PASRR program on nursing facility transition and diversion, all sorts of things.

It was a very rich track of presentations. We wanted to let you know that the slide decks are available on the ADvancing States Web site. So, all of the presentations that any presenter gave at the conference, are up on the ADvancing States Web site, and that includes all of the CMS presentations.

So, if you go to AdvancingStates.org, at the top, you will see a tab for the HCBS conference. And then if you click on that tab on the right-hand side, there will be links to take you to the presentation materials of the various years, and 2021 materials are now available for you to preview.

So, I'm going to stop now, and I'm going to hand it over to Jen Bowdoin, who is going to talk about one of the really pivotal actions that the Disabled and Elderly Health Programs Group has been implementing to come out of the American Rescue Plan, and that is Section 9817, which authorized some additional federal funding for Home and Community-Based Services. So, with that, I am going to turn it over to Jen. Thank you.

Jen Bowdoin: Thanks, Melissa, and hi, everyone. This is Jen Bowdoin. I am the Director of the Division of Community Systems Transformation in the Disabled and Elderly Health Programs Group. So, as you are probably aware, the American Rescue Plan Act of 2021 provided an estimated \$12.7 billion to State home, and community-based services systems through a 10-percentage point increase to the Federal Medical Assistance Percentage, or FMAP, that states can receive for certain Medicaid Home and Community-Based Service expenditures.

So, the increase is available for one year from April 1, 2021, to March 31, 2022. In the interest of time, I'm not going to get into a lot of detail on this particular provision, which is Section 9817 of the American Rescue Plan. Instead, I just want to give you a few brief updates on where CMS and the states are with the implementation of ARP Section 9817.

If you'd like to know more about Section 9817, I would encourage you to visit our Web page on Section 9817, which is on Medicaid.gov. It has a very lengthy URL, so I'm not going to repeat it on this call. But if you just do a basic search for ARP Section 9817, it will come up as one of the first hits on the search.

And on this page, we have posted background information on ARP Section 9817, the state Medicaid director letter that we released this past May, as well as the spending plans narrative that states are submitting, along with CMSs approval letters and requests for additional information for each state.

So, in terms of the updates, first, I wanted to just remind folks that all states - and in fact, for a number of months now, all states have been fully approved to begin claiming the FMAP increase retroactively to April 1, 2021.

Many states have actually begun claiming the additional funding, and we are available to provide states with technical assistance to address any challenges they are experiencing with claiming the increased FMAP.

So, any states that are encountering issues, should just feel free to reach out to the increased FMAP mailbox, or to their spending plan reviewer, or their state lead, and we will make sure to get you technical assistance.

Second, late last week, we posted on the ARP Section 9817 Web page on Medicaid.gov, an infographic that provides an overview of some key pieces of information in the initial spending plans that states submitted to CMS.

And based on what's in this infographic, I'm just going to share with you a couple of the highlights. So, according to the initial spending plans submitted to CMS, each state plans to spend between \$32 million and \$4.6 billion on activities that enhance, expand, or strengthen HCBS under Medicaid.

So, this is additional spending above and beyond the spending that it would have done absent 9817. And the total estimated spending across all states is \$25 billion. Across states, the estimated amount of additional spending on each HCBS as a result of the states act - as a result of the activities that states are implementing their spending plans, is approximately \$2,600 per HCBS beneficiary. And that amount ranges across the states from a low of \$147 per beneficiary, to nearly \$13,000 per HCBS beneficiary, depending upon the state.

In terms of the activities that states are implementing, the two most common types of activities that states have included in their initial spending plans, are workforce investments and activities to expand access to services, or

increased payment rates. And each of those types of activities were included in 46 of the states' plans.

Other types of activities that are very common are technology and tele-health-focused activities, which are included in 36 states' plans, quality improvement activities, which are included in 32 states' plans, and activities that are focused on addressing social determinants of health, including housing, which are included in 24 states' plans.

The last thing I'll note is that on a weekly basis, we are moving more and more states with conditional approval of their spending plans. So, for anyone who is unfamiliar with what we mean by conditional approval, essentially what this means is that a state with a conditional approval, has been fully approved to claim the HCBS FMAP increase retroactively to April 1, 2021, and they can begin implementing all of the activities included in the spending plan.

About half of the states now have conditional approval, a little bit more than half, based on the last quarterly submission, and that's in comparison to only about seven states that had conditional approval based on their initial spending plan. The other half of states have what we call a partial approval.

This is similar to the conditional approval in that the states have been fully - those states have been fully approved to claim the HCBS FMAP increase retroactively to April 1, 2021. So, a state with a partial approval, like all the states that have conditional approval, can claim the FMAP increase. So, all of the states have been approved to start claiming the FMAP increase.

What's different about the partial approval is that CMS has questions about one or more activities in the state spending plan, or has identified a proposed

activity as not approvable. States with partial approval of their spending plans can begin implementing any activity included in the spending plan, if CMS has not identified the activity as not approval - not approvable, or asked for additional information about the activity.

And so, many states, even if they have a partial approval letter, can really begin to move forward with many of the activities in their spending plans. And we would encourage them, if they have any questions about that or need technical assistance on any of the activities, they should absolutely reach out to CMS for assistance.

We do expect to move more states to conditional approval over the next several weeks, and are really hopeful that we'll be able to move nearly all states to conditional approval after CMS completes its review of the spending plans that were due on February 1st.

And with that, I'm going to hand the call over to Nancy Kirchner from the Division of Benefits and Coverage, who will talk about the state health official letter that CMS recently released on the new state options to provide qualifying community-based mobile crisis intervention services. Nancy?

Nancy Kirchner: Thank you very much, Jen. Hello, everyone. My name is Nancy Kirchner, and I am a Technical Director in The Division of Benefits and Coverage, and I'm going to talk through some of the key highlights from the guidance that Jen was talking about.

Section 9813 of the American Rescue Plan Act of 2021 added a new option for qualifying community-based mobile crisis intervention services. That legislation amended Title XIX of the Social Security Act, to create a new

section 1947. I want to be very clear here that Section 1947 does not add a new benefit in the Medicaid program.

Rather, it allows states to use existing authorities to cover services that meet the requirements outlined in Section 1947. And as Jen mentioned, CMS issued a state health official letter on December 28th, 2021, about the provision, and it's titled, The Scope of And Payments for Qualifying Community-Based Mobile Crisis Intervention Services. And that state health official letter is posted on [Medicaid.gov](https://www.medicaid.gov).

This particular state option, 1947, is available for up to a period of five years. It begins on April 1st, 2022, and ends on March 31st, 2027. For the first 12 quarters of the program, operating in accordance with the statutory requirements, there is an increased federal medical assistance percentage, or FMAP, of 85% for qualifying services. And I want to go ahead and reinforce that this is at state option. So, a state Medicaid agency would have to opt for this provision. It is not required.

In the state health official letter, there is a lot of information about best practices and resources for states to consider when establishing mobile crisis services as part of a robust continuum of crisis care, including strategies to reduce emergency department usage, hospital use, and to divert individuals from the criminal justice system.

Our partner federal agency SAMHSA, was of great support and assisted CMS with authoring this guidance, particularly as it related to best practices and resources. States have a lot of flexibility when designing their programs, as they may disregard certain requirements in Medicaid, including state-wideness, comparability, and free choice of provider.

Additionally, states will not need to enroll every provider on the mobile crisis team and may enroll a provider entity instead. The main objectives of community-based mobile crisis intervention services are to provide rapid response, individual assessment, and crisis resolution outside of a hospital or a facility setting to individuals who are experiencing a mental health or a substance use disorder crisis.

The team must be able to provide services when appropriate that include screening and assessment, stabilization, and de-escalation of the crisis, and coordination with and referrals to health, social, and other services and supports, and also health services as needed.

In the statute, these services must be provided to individuals who are Medicaid eligible. The services must be otherwise covered in the state plan, or through another Medicaid authority, such as a 1915b) or c waiver or a Section 1115 demonstration. Services can be provided in a managed care or a fee-for-service delivery system.

And there are generally three paths for states to claim the increased federal matching money. A state may already cover and meet the requirements of Section 1947, and not have to change anything in terms of their state plan or other Medicaid authority. A state might need to modify the services to meet the requirements in Section 1947. And in that instance, they may need to submit a SPA, a waiver, or a demonstration, to meet those requirements. Or a third path may be that a state needs to submit a new state plan amendment, waiver or demonstration, to cover the mobile crisis services and meet the requirements in Section 1947.

Community-based mobile crisis intervention services must be delivered by a

multidisciplinary team. And since it is a team, that means more than one person. And at a minimum, the team must include one behavioral health professional who is qualified to provide an assessment within scope of practice requirements under state law.

However, states have tremendous flexibility in adding other professionals and paraprofessionals with experience and expertise in behavioral health and/or mental health crisis response, including peer support specialists. States must ensure that community-based mobile crisis intervention services are available 24 hours a day, 365 days a year.

And in the letter, we offer information about use of tele-health in terms of meeting those requirements and in terms of the team composition. States must maintain relationships with community partners and providers.

There is a maintenance of effort requirement in the statute in which states must demonstrate that additional federal funds for community-based mobile crisis intervention services in that quarter, will supplement and not supplant the level of state funds expended for these services in the federal fiscal year prior to April 1, 2022. So, that would be as of September 30th, 2021.

The guidance also includes information about how states would submit SPAs, or waivers, and how to claim for increased matching federal money, as well as data reporting. Importantly, Federal administrative match may be available to for state Medicaid agency costs associated with establishing and supporting the delivery of community-based mobile crisis intervention services for people with mental health conditions or SUD.

Allowable administrative activities could include operating state crisis access lines, and dispatching mobile crisis teams as needed to assist Medicaid

beneficiaries. Additional detail on approaches for administrative claiming was provided at the all-state Medicaid call on the 25th of January. And information about that presentation should also be available on [Medicaid.gov](https://www.Medicaid.gov).

The final piece I wanted to mention about the statute is section 9813 of the American Rescue Plan Act also authorized \$15 million in planning grants. CMS awarded planning grants to 20 states in September of 2021 to support the development of state plan amendments, section 1115 demonstrations, and waiver program requests or amendments to implement qualifying community-based mobile crisis intervention services, and to meet the federal statutory requirement for these services.

States did not need to apply for and/or receive a planning grant in order to provide the qualifying community-based mobile crisis intervention services. And with that, I'm going to go ahead and close out my presentation. Am I turning this back to Jodie or Jill?

Jill Darling: Hey, Nancy, it's Jill. Thank you. That concludes our presentation today, and we will open the call for Q&A.

Coordinator: Thank you. To ask a question, please press Star 1 and record your name when prompted. If you need to withdraw that question, you would press Star 2. And we will wait for the first question. Once again, if there are any questions over the phone lines, please press Star 1 and record your name when prompted. If you need to withdraw your question, you would press Star 2. And at this time, I show no questions in the phones.

Jill Darling: All right. Well, thank you, everyone, for joining today's call. There were some helpful links about today's presentation on the agenda. So, please feel free to click on those. And if you do have any questions or comments, please email

the long-term services and support email. It is listed on the agenda. It's always there. So, please utilize that. And we appreciate your time have a great day, everyone.

Nancy Kirchner: Thank you.

Coordinator: This does conclude today's conference. Thank you all for participating. You may now disconnect.

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