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Assessing Enhanced Federal Funding for HCBS Under the American Rescue Plan Act

Authored by Manatt Health
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On March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) into law, enacting a sweeping $1.9 trillion COVID-19 relief package. The legislation includes a number of provisions that will significantly impact state and federal health care policies and programs, including enhanced federal funding for state Medicaid spending on home- and community-based services (HCBS). Beginning April 1, 2021 and through March 31, 2022, states will be eligible to receive a 10 percentage point increase in their federal medical assistance percentage (FMAP)—the share of state Medicaid spending that is paid for by the federal government—for specified HCBS. This brief describes ARPA's HCBS FMAP increase provision, the requirements for states receiving the enhanced federal funding, and considerations and next steps for state policymakers.

The Role of HCBS in Medicaid

HCBS are a diverse set of services that assist people with disabilities or chronic illness and older Americans with their daily activities—such as preparing meals, transportation, and personal care—allowing them to live independently and safely in their homes and communities. Some HCBS also meet an individual's medical needs, such as home health care services. Medicaid is the primary payer for all long-term services and supports (LTSS), including HCBS and services provided in institutional settings, such as a nursing home. States have been spending an increasing proportion of LTSS dollars on HCBS for decades, reflecting an emphasis on providing LTSS in the least restrictive and least intensive care settings. In 2018, HCBS accounted for 56 percent of Medicaid LTSS spending–up from 48 percent in 2010--though the proportion of Medicaid LTSS dollars spent on HCBS in each state varies, ranging from 30 to 83 percent.[1] HCBS are an essential component of the care continuum, as evidenced during the COVID-19 pandemic. As states sought to decompress nursing homes and other institutional LTSS settings during the pandemic, they expanded eligibility for and the scope of available HCBS so that individuals could continue to have their needs met outside of an institutional setting.

[1] http://files.kff.org/attachment/Issue-Brief-Medicaid-Home-and-Community-Based-Services-Enrollment-and-Spending and https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltssexpenditures-2017-2018.pdf

Enhanced HCBS Funding in the American Rescue Plan Act

Section 9817 of ARPA provides states with a one-year, 10 percentage point FMAP increase for state Medicaid expenditures for HCBS. The federal government currently pays for anywhere between 56 and 84 percent of state Medicaid expenditures, depending on the state; this includes increases in federal funding that were made available to states for the duration of the public health emergency through previous COVID legislation.[2]

Under ARPA's enhanced HCBS funding provision, a state that currently receives federal payments for 60 percent of its Medicaid expenditures will now receive federal payments for 70 percent of its Medicaid HCBS expenditures. This 10 percentage point increase will apply only to HCBS expenditures provided between April 1, 2021 and March 31, 2022, and it will be provided on top of any other FMAP increases a state may receive for HCBS, such as the six percentage point increase available to states that take up the Community First Choice 1915(k) state plan option for attendant services and supports, or the enhanced FMAP Congress authorized in previous COVID-related legislation.[3] However, ARPA caps the cumulative federal contribution a state may receive for Medicaid HCBS at 95 percent. All HCBS authorized by a state plan or waiver are eligible for the increased FMAP, as well as home health care, personal care, services provided by Programs of All-Inclusive Care for the Elderly (PACE), case management, rehabilitative services, and other services as specified by the Secretary of the U.S. Department of Health and Human Services.

Importantly, ARPA requires that the additional federal funds received by a state through the enhanced FMAP must *supplement, not supplant, the state funds expended for HCBS* as of April 1, 2021. This means that a state must at least maintain, and may not reduce, its level of spending on HCBS as of April 1, 2021 in order to receive the 10 percentage point increase in federal funding. This expenditure "baseline" includes state expenditures for HCBS being provided under COVID-related temporary emergency authorities, such as a 1915(c) waiver Appendix K or a Disaster Relief State Plan Amendment (SPA).[4] Rather than provide states with increased funding to maintain the status quo, the law requires states to use the additional funds to implement, or supplement implementation of, activities to "enhance, expand, or strengthen" Medicaid HCBS.[5] The ARPA language is drafted somewhat ambiguously and additional CMS guidance is necessary to project the application of the enhanced FMAP provision.

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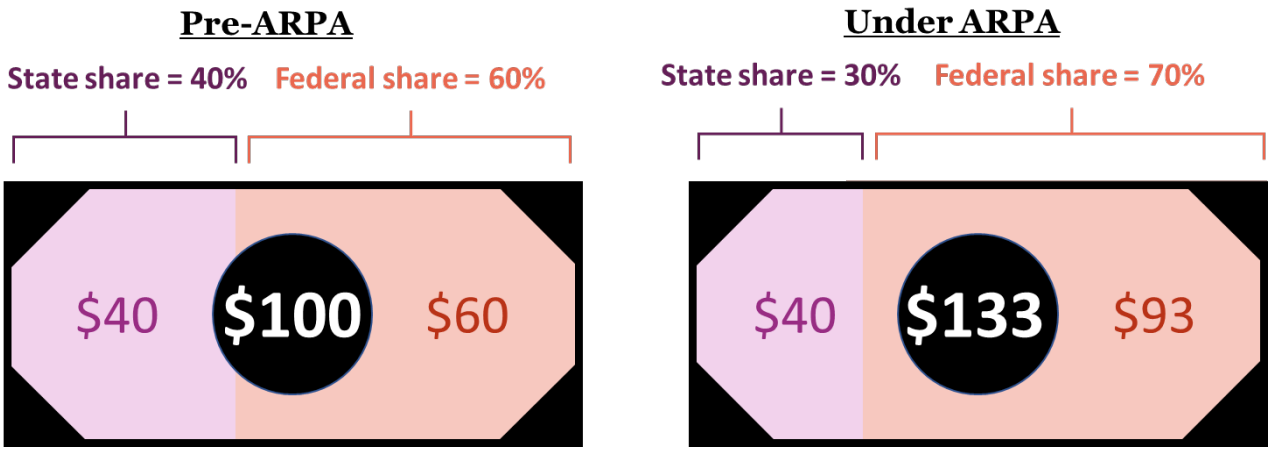
[2] https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

[3] The 6.2% FMAP increase included in the Families First Coronavirus Response Act will expire at the end of the public health emergency, which will most likely occur while the ARPA FMAP increase remains in effect.

[4] States may use a 1915(c) waiver Appendix K during an emergency to modify provisions in an existing 1915(c) waiver, including eligibility, scope of services, and provider qualifications. States may use a Disaster Relief State SPA during an emergency to revise eligibility, enrollment, and benefit requirements in their state plans.

[5] https://www.congress.gov/117/bills/hr1319/BILLS-117hr1319enr.pdf

Example Scenario*: A state with a 60% FMAP has total HCBS Medicaid expenditures of $100 as of 4/1/21



**CMS guidance is required to validate calculations shown in this example.*

How States May Use Enhanced HCBS Funding

CMS is expected to release guidance in the near future on how states may implement the enhanced HCBS funding provision of ARPA, including if and how the funding may be used for HCBS infrastructure investments that have long-term system impacts. However, there are many near-term activities states can pursue based on the plain language of the legislation.

Immediate Activities That May Be Undertaken by States

States may use the additional federal funds to preserve or expand access to HCBS by:

- Increasing HCBS provider rates or providing hazard and retainer payments to direct care providers, such as personal care aides
- Creating new HCBS waiver slots to reduce waiver waitlists
- Modifying existing waiver eligibility criteria or submitting a SPA to expand eligibility for state plan HCBS
- Adding coverage of new HCBS—including devices and remote technologies—to waivers or state plans.

Enhanced federal funding to support these activities is time-limited and states will need to consider how to sustain these activities when the enhanced FMAP and associated additional federal funding expires.

Investments to Expand Capacity in the HCBS System for the Long-Term

States should also consider using the enhanced federal funding to create capacity to meet the growing demand for HCBS and support the structural change needed to strengthen their HCBS systems for the long-term. For example, HCBS workforce shortages, particularly among direct care providers, are one of the most pressing challenges for states and can have an adverse impact on access and quality. Subject to CMS guidance on allowable activities, the enhanced federal funding for HCBS made available through ARPA could be used for:

- Supporting and expanding the HCBS workforce through recruitment, training and credentialing, which states should consider in tandem with service or eligibility expansion to ensure the workforce can meet the increased demand
- Reforming compensation and benefit structures, building career pathways, and establishing directories and referral networks for direct care providers
- Outreaching to and engaging targeted communities to facilitate access to HCBS for which they may already be eligible
- Engaging family advocates and representatives to identify opportunities to use the enhanced funding to support paid and unpaid family caregivers
- Supporting transitions out of institutional settings and into safe home and community-based settings
- Implementing quality improvement programs
- Better integrating HCBS into the broader health care delivery system

In addition to the ARPA HCBS funding, the Biden Administration has also proposed including $400 billion in HCBS infrastructure investments in the recently announced American Jobs Plan. If the plan is passed by Congress and signed into law, states will be able to use this funding to undertake the type of initiatives described here.

Outstanding Questions for States

States will be eligible to receive the increased federal funding for Medicaid HCBS beginning this week yet there are several critical questions that CMS will need to address in guidance. These questions include:

- How should states calculate the state expenditure "baseline," or the level of state spending on Medicaid HCBS as of April 1, 2021? Is CMS making this calculation or are states expected to make this calculation and report to CMS?
- Which, or what types of, activities will fulfill the requirement to "enhance, expand, or strengthen" Medicaid HCBS activities? Will the Secretary explicitly specify additional HCBS than those outlined in ARPA, or do states need to propose additional services to be included? Are

there specific activities that may not be funded with the enhanced federal funds provided under ARPA?

- What constitutes implementation of an activity, or supplementing implementation of an activity? Does "implementation" imply that it has to be a new activity, or can it be an enhancement to an existing activity?
- Is there a time limit for using the enhanced federal funds to "enhance, expand, or strengthen" Medicaid HCBS activities?
- Will there be any state reporting requirements on use of the enhanced federal funds provided under ARPA?

Conclusion

States have been working tirelessly to expand access to HCBS to shift care out of institutional settings and into less intensive and restrictive settings. The COVID-19 pandemic intensified people's preference for receiving home-based care and reinforced the need for a robust and stable HCBS system to provide high-quality, person-centered care to Medicaid populations. The increased funding provided in ARPA will help provide states with resources needed to continue state efforts to expand and strengthen HCBS while also signaling to policymakers that investment in HCBS is foundational to broader delivery system reform. State policymakers should begin engaging state legislators and other stakeholders now, as appropriate, to ensure the HCBS investments authorized under ARPA are reflected in state budgets and to identify any other policy or operational changes needed to implement these investments.

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