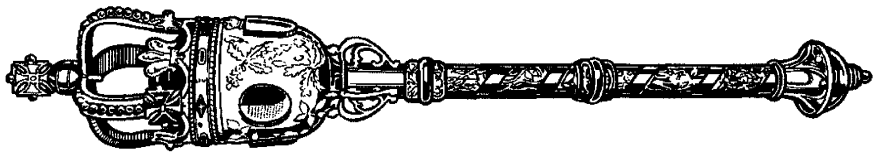
Report of the House Appropriations Subcommittee

on

Health & Human Resources



House Bill 29

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House Bill 30

February 19, 2012

REPORT OF THE SUBCOMMITTEE
on
HEALTH & HUMAN RESOURCES

Mr. Chairman and Members of the Committee:

The Health and Human Resources Subcommittee is pleased to put before you a series of recommendations which address many of the concerns we heard at our public hearings, and from members of this body, related to shoring up the safety net, payment adequacy for hospitals and nursing homes, and providing needed services to individuals in the community with intellectual and developmental disabilities.

First, I would like to tell you about our recommendations related to the funding for the health care safety net. Safety net organizations, located throughout the Commonwealth, provide much needed cost-effective health care to thousands of sick, uninsured Virginians. On Friday, you heard Delegate Jones mention that these organizations provided care to more than 198,000 uninsured Virginians. We are recommending $6.2 million to restore funding to free clinics, community health centers, dental services provided through local health departments, and other smaller health safety net providers. This includes funding for the Virginia Health Care Foundation, a long-standing public/private partnership which awarded 83 grants last year for health care projects which treated 34,000 low-income, uninsured patients through 80,000 health care visits. The Foundation leverages more than $11 in cash, health services and other in-kind contributions for every $1 in state funding.

We are also recommending almost $1.3 million in funding for our local aging agencies to address the growing number of elderly citizens in need of community-based health care, nutritional and social services. These services are some of the most cost effective ways to keep our frail elderly citizens at home and avoid more expensive institutional care. In addition, the amendments before you restore funds for community

based rehabilitation services and supported employment for individuals with physical disabilities. These funds, together with additional funding recommended by the Governor for vocational rehabilitation services, are critical for maintaining disabled individuals in the community and helping them obtain and retain employment.

Mr. Chairman, the Subcommittee shared many of the concerns of the members of this body about the adequacy of Medicaid funding of our hospitals and nursing homes. These health care providers are critical partners in caring for the sick, aged and disabled in Virginia. They also are critical to our economy, employing thousands of citizens across the Commonwealth. It is true that our Medicaid program continues to grow, nevertheless we cannot control costs solely by squeezing our health care providers. We must ensure that Medicaid payments are fair and adequate to ensure access to services and the delivery of quality care for low-income, vulnerable Virginians. Therefore we are recommending an additional $66.7 million in state funding over the biennium to be matched with federal dollars for these critical health care providers, along with $10 million in state and federal funding for nursing home capital improvements.

Finally, let me reiterate some of Delegate Jones' points made on Friday related to funding community based services for individuals with intellectual disability (ID) and developmental disabilities (DD). As you recall, last year we wisely set aside $30 million in the Behavioral Health and Developmental Services Trust Fund to transition individuals from our state training centers into the community. In December, the Governor proposed an additional $30 million for the Trust Fund in fiscal year 2013 in anticipation of a settlement agreement with the U.S. Department of Justice (DOJ) related to their investigative findings last year. The Subcommittee is recommending the appropriation of these funds to address the DOJ Settlement Agreement to provide:

- 340 new ID waiver slots over the biennium to transition individuals from state training centers to the community,
- 450 new ID waiver slots over the biennium to address the community urgent care waiting list, and

- 50 new DD waiver slots over the biennium.

In addition, the funding will be used to create a new individual and family support program for up to 1,000 individuals and expand crisis services. These services will play an important role in maintaining a robust community system of care.

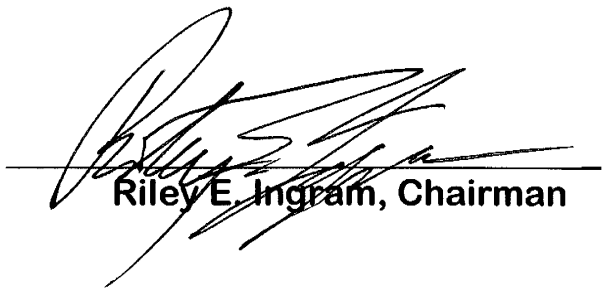
While the DOJ settlement goes a long way in moving Virginia forward in its community approach to care, the Subcommittee was concerned that growth in the community waiting lists will continue to impede our efforts to keep individuals out of more costly, less integrated, institutional care. Our ID urgent care waiting list grows by about two individuals per day with many individuals in desperate need of services, as their parents and caregivers are no longer able to care for them at home without help. Therefore, the Subcommittee is recommending funding to add 200 ID waiver slots and an additional 50 DD waiver slots over the biennium. This is above the amount required in the DOJ Settlement Agreement.

Finally, Mr. Chairman, the Subcommittee recommends funding to roll back the Health Department fees contained in the introduced budget. The introduced budget would have increased restaurant inspections from $40 to $60 and increased community waterworks connection fees from $2.05 to $3.00 per connection.

Mr. Chairman, I want to thank you and the members of this Committee for supporting our efforts to shore up the health and human services safety net, ensure quality care for aged and disabled citizens of the Commonwealth, and address the waiting lists for disabled citizens.

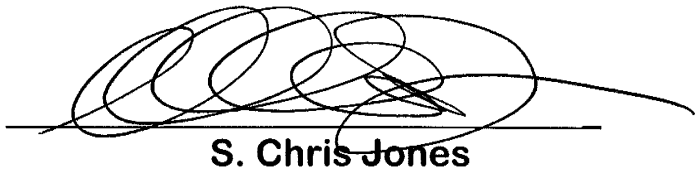
Now, I will ask staff to take you through our detailed recommendations, and then I hope it will be your pleasure to adopt our Subcommittee report.

Respectfully Submitted by the House Appropriations Subcommittee on Health & Human Resources:

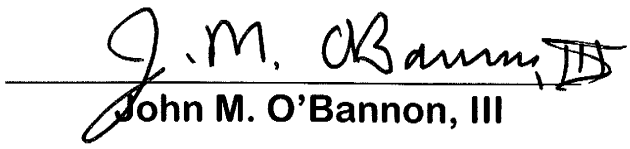


Riley E. Ingram, Chairman

R. Steven Landes

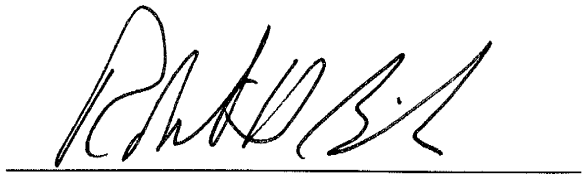


S. Chris Jones

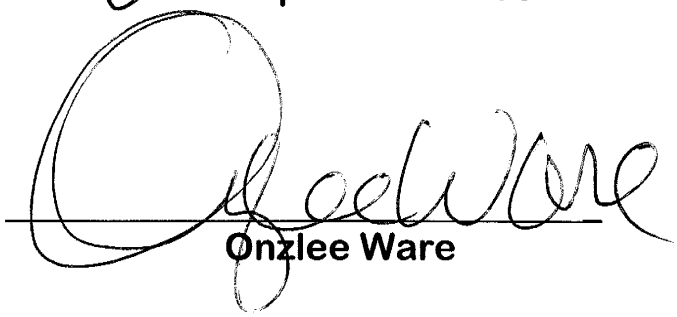


John M. O'Bannon, III

Christopher K. Peace



Robert H. Brink



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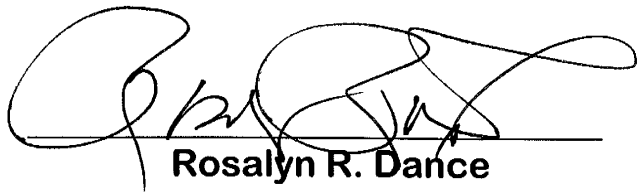

Rosalyn R. Dance

Health & Human Resources Amendments	HB 29 FY 2012 GF	HB 29 FY 2012 NGF	HB 30 - 2012-2014 Biennium General Fund	HB 30 - 2012-2014 Biennium Nongeneral Fund	FTE
Comprehensive Services Act					
Adjust Caseload and Utilization			(17,714,219)	0	
Department for the Aging					
Restore Funds Aging Home and Community-based Services			263,706	0	
Provide Funding for Area Agencies on Aging			1,000,000	0	
Allow Department to Operate Long-Term Care Ombudsman Program			Language		
Implementation of Dementia State Plan			Language		
Virginia Department of Health					
Restore Funding for the Virginia Health Care Foundation			2,040,286	0	
Restore Funding for Free Clinics			1,598,200	0	
Restore Funding for Community Health Centers			1,204,375	0	
Restore Funding and Develop Plan for Dental Services			967,944	696,362	20.00
Restore Funding for Comprehensive Health Investment Proj. of VA			727,628		
Restore Funding for Other Health Care Safety Net Providers			510,800	0	
Restore Funding for VHI Patient Level Database			118,711		
Funding for Proton Beam Therapy and Research			1,500,000	0	
Reduce Fees for Community Waterworks Connections			1,682,326	0	
Reduce Fees for Restaurant Annual Permit Renewal Fees			908,240	0	
Adjust Funding for Lyme Disease Surveillance			(100,000)	0	
Allocate Portion of $4.25 for Life Funds for EMS Tech. Testing			Language		
Restore Language Transferring Vital Records Fee to General Fund			Language		
Department of Medical Assistance Services					
Capture savings from federal bonus payment for Medicaid	(26,729,489)	26,729,489	(8,233,670)	8,233,670	
Maintain Enhanced Federal Match Rate for Medicaid SCHIP Program			(7,558,807)	7,558,807	
Adjust Medicaid Forecast for New Enrollees			(44,344,236)	(44,344,236)	
HB 183-Extend Medicaid/FAMIS to Pregnant Immigrants & Children			1,103,035	1,563,549	
Medicaid Funding for the State Teaching Hospitals			8,743,133	55,326,100	
Correct Hospital Inflation Savings			(4,638,262)	(4,638,262)	
Medicaid Hospital Inpatient Payments			37,670,056	30,839,700	
Medicaid Nursing Facility Home Operating Payments			29,049,838	29,049,838	
Medicaid Congregate Care Rate Increase			4,172,661	4,172,661	
Add 200 Intellectual Disability Waiver Slots			9,356,325	9,356,325	
Add 50 Developmental Disability Waiver Slots			1,115,850	1,115,850	
Exempt Behavioral Health Drugs from Medicaid PDL in FY 2013			2,100,000	2,100,000	
Allow Adults with ID on EDCD Waiver to Receive Facility Respite Care			Language		
Add Provider Organizations to Work Group on Intensive In-home Svs.			Language		
Care Coordination for Behavioral Health Services			Language		
Revise Home and Community Based Services Audit Methodology			Language		
Enhance Qualifications for Consumer Directed Service Facilitators			Language		
Care Coordination of High Need Medicaid Recipients			Language		
Medicaid Provider Appeals Procedure			Language		
Medicaid Fraud Control Efforts			Language		
Medicaid Provider Exclusion and Removal			Language		
Plan for Medicaid Administrative Hearings to Combat Recipient Fraud			Language		
Department of Behavioral Health and Developmental Services					
Children's Mobile Crisis Services			1,000,000	0	
Allocation of Behavioral Health & Developmental Svs. Trust Fund			Language		
Department of Rehabilitative Services					
Restore Funding for Community-based Rehabilitation Services			802,444	0	
Restore Funding for Community-based Employment Support Svs.			538,126	0	
Eliminate Funds-Didlake community rehab. Agency			(400,000)	0	
Department of Social Services					
Stagger Issuance of SNAP Benefits for New Enrollees			(100,000)	(100,000)	
Restore Funding for Community Action Agencies			1,000,000	0	
Reduce Funds-Early Childhood Foundation			(1,500,000)	0	
Eliminate Funds-Northern Virginia Family Services			(400,000)	0	
Eliminate Funds-OxBow Center			(176,000)	0	
Child Protection Accountability Project			Language		
Department for the Blind and Vision Impaired					
Radio Reading Services to Dept. of Education			(240,326)	0	
HB 1291 Executive Reorganization-Merge DBVI into DRS			(219,450)	0	
Total-Health & Human Services	**(26,729,489)**	**26,729,489**	**23,548,714**	**100,930,363**	**20.00**
Part 3: Miscellaneous					
Restore Transfer of Vital Records Fee to General Fund			Language		

Amendment to House Bill 30, as Introduced

Health and Human Resources Subcommittee Item 284 #3h

Health And Human Resources
Department For The Aging Language

Language:
Page 212, after line 44, insert:
"Q. Notwithstanding § 2.2-703, Code of Virginia, the Department for the Aging may administer the state Long-Term Care Ombudsman program in accordance with Public Law 89-73, ensuring programmatic independence and autonomy."

Explanation:
(This amendment provides authority for the Department for the Aging to operate the state Long-Term Care Ombudsman program. The federal Older Americans Act requires that each state operate such a program. The Code of Virginia currently requires that a non-profit entity administer the program in Virginia; however the non-profit organization responsible for running the Long-Term Care Ombudsman program has indicated that they will no longer be doing so. This language is needed so that the Commonwealth meets the federal mandate in the absence of any appropriate non-profit meeting the requirements of the Code of Virginia.)

Health and Human Resources Subcommittee Item 284 #4h

Health And Human Resources
Department For The Aging Language

Language:
Page 212, after line 44, insert:
"Q. The Department shall (i) coordinate services and resources among agencies involved in the delivery of services to Virginians with dementia; (ii) monitor the implementation of the Dementia State Plan; (iii) recommend policies, legislation, and funding needed to implement the action plans developed in the Plan; (iv) collect and monitor data related to dementia's impact on the people of the Commonwealth; and (v) determine services, resources, and policies that may further address the needs of individuals with dementia."

Explanation:
(This language amendment requires the Department for the Aging to serve as the lead state agency for implementation of the Dementia State Plan included in the 2011

Annual Report of the Alzheimer's Disease and Related Disorders Commission-Dementia State Plan: Virginia's Response to the Needs of Individuals with Dementia and their Caregivers.)

Health and Human Resources Subcommittee — Item 290 #1h

Health And Human Resources
Department Of Health — Language

Language:
Page 215, after line 40, insert:
"F. Notwithstanding any other provision of law or regulation, funds from the .25 of the $4.25 for Life fee shall be provided for the payment of initial testing for the basic level emergency medical services training provided by the National Registry of Emergency Medical Technicians."

Explanation:
(This amendment is self-explanatory.)

Health and Human Resources Subcommittee — Item 292 #1h

Health And Human Resources
Department Of Health — Language

Language:
Page 216, after line 5, insert:
"B.1. Notwithstanding § 32.1-273.1., Code of Virginia, two dollars of each fee collected by the State Registrar shall be deposited by the Comptroller to the Virginia Vital Statistics Automation Fund and two dollars of each fee collected shall be used to fund health care services."
Page 216, line 6, strike "B.", insert: "2."

Explanation:
(This amendment restores language which was eliminated in the introduced budget which allocates two dollars of the fee charged on vital records in the Department of Health to the Virginia Vital Statistics Automation Fund and two dollars to fund health care services. This is consistent with existing language contained in Chapter 890 of the 2011 Acts of Assembly.)

Amendment to House Bill 30, as Introduced

Health and Human Resources Subcommittee — Item 297 #5h

Health And Human Resources	**FY 12-13**	**FY 13-14**	
Department Of Health	$0	$510,800	GF

Language:

Page 220, line 2, strike "$6,795,644" and insert "$7,306,444".

Page 222, after line 43, insert:

"T. The Commissioner of the Department of Health shall allocate $510,800 the second year from the general fund to health safety net providers contained within this item who have entered into performance agreements that are consistent with § 4-5.02, paragraph l. of the general provisions of this act."

Explanation:

(This amendment adds $510,800 the second year from the general fund to restore funding for health care safety net providers whose funding was reduced by 50 percent in fiscal year 2014 in the introduced budget and who have entered into performance agreements with the Department of Health consistent with the § 4-5.02, paragraph l. of the general provisions of House Bill 30 related to the procurement of goods and services. Companion amendments restore funding for the Virginia Health Care Foundation, free clinics and community health centers, and the Comprehensive Health Investment Project of Virginia. This amendment would mitigate reductions to smaller health safety net organizations which were reduced in the introduced budget.)

Health and Human Resources Subcommittee — Item 307 #4h

Health And Human Resources	**FY 12-13**	**FY 13-14**	
Department Of Medical Assistance	$8,743,133	$0	GF
Services	$21,022,508	$34,303,592	NGF

Language:

Page 225, line 49, strike "$7,438,749,436" and insert "$7,468,515,077".

Page 225, line 49, strike "$9,042,320,948" and insert "$9,076,624,540".

Page 226, line 15, strike "$64,089,697" and insert "$68,225,893".

Page 226, line 22, strike "$32,092,758" and insert "$36,699,695".

Page 226, after line 32, insert:

"4. The Department Of Medical Assistance Service shall have the authority to increase Medicaid payments for Type One hospitals and physicians consistent with

the appropriations to compensate for limits on disproportionate share hospital (DSH) payments to Type One hospitals that the department would otherwise make. In particular, the department shall have the authority to amend the State Plan for Medical Assistance to increase physician supplemental payments for physician practice plans affiliated with Type One hospitals up to the average commercial rate as demonstrated by University of Virginia Health System and Virginia Commonwealth University Health System, to change reimbursement for Graduate Medical Education to cover costs for Type One hospitals, to case mix adjust the formula for indirect medical education reimbursement for HMO discharges for Type One hospitals and to increase the adjustment factor for Type One hospitals to 1.0. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change."

Explanation:

(This amendment restores Medicaid funding for the state teaching hospitals. The introduced budget eliminated hospital inflation and continued prior year reductions in indigent care funding that impacted the teaching hospitals more than intended. This amendment restores the general fund for the teaching hospitals in fiscal year 2013 to reflect the impact of only losing inflation and the prior indigent care reductions. In addition, the nongeneral fund appropriation is increased for the federal share of the total reductions because those funds will still be paid to the teaching hospitals regardless of the loss of general fund. Language is added to allow the agency the authority to compensate the teaching hospitals for limits on DSH payments using other payment mechanisms available through Medicaid funding for reimbursement of Medicaid and indigent care costs.)

Health and Human Resources Subcommittee Item 307 #6h

Health And Human Resources	**FY 12-13**	**FY 13-14**	
Department Of Medical Assistance	$15,782,114	$21,887,942	GF
Services	$12,888,849	$17,950,850	NGF

Language:

Page 225, line 49, strike "$7,438,749,436" and insert "$7,467,420,399".
Page 225, line 49, strike "$9,042,320,948" and insert "$9,082,159,740".
Page 238, strike lines 5 through 8.
Page 238, line 9, strike "ii" and insert "i".
Page 238, line 11, strike "iii" and insert "ii".

Page 238, line 12, strike "iv" and insert "iii".
Page 238, strike lines 13 through 15.
Page 238, line 16, strike "3" and insert "2".
Page 239, after line 5, insert:
"LLL. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to limit hospital inflation to 2.45% in fiscal year 2013 and 0% in fiscal year 2014. The department shall have the authority to implement these reimbursement changes effective July 1, 2012, and prior to completion of any regulatory process undertaken in order to effect such changes."

Explanation:

(This amendment adds $15.8 million from the general fund and $12.9 million in federal Medicaid matching funds the first year and $21.9 million from the general fund and $18.0 million in federal matching funds the second year to provide a 2.45 percent increase in hospital inpatient payments in fiscal year 2013. In addition, language in the introduced budget which would have changed in the current reimbursement methodology for applying inflation adjustments is stricken.)

Health and Human Resources Subcommittee Item 307 #7h

Health And Human Resources	**FY 12-13**	**FY 13-14**	
Department Of Medical Assistance	$11,529,215	$17,520,623	GF
Services	$11,529,215	$17,520,623	NGF

Language:

Page 225, line 49, strike "$7,438,749,436" and insert "$7,461,807,866".
Page 225, line 49, strike "$9,042,320,948" and insert "$9,077,362,194".
Page 238, strike lines 9 and 10.
Page 238, line 11, strike "iii" and insert "ii".
Page 238, line 12, strike "iv" and insert "iii".
Page 239, after line 5, insert:
"LLL. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to eliminate ceiling rebasing in fiscal year 2013, to increase rates and current ceilings for regular and specialized care nursing facilities by 2.2 percent in fiscal year 2013 and 2.2% in fiscal year 2014 and to increase ceilings an additional one percent in fiscal year 2013. The department shall have the authority to implement these reimbursement changes effective July 1, 2012, and prior to completion of any regulatory process undertaken in order to effect such changes."

Explanation:

Amendment to House Bill 30, as Introduced

(This amendment strikes language in the introduced budget eliminating an inflation adjustment for nursing facilities. It adds $11.5 million the first year and 17.5 million the second year from the general fund and a like amount of federal Medicaid matching funds each year to provide a 2.2 percent increase in nursing facility rates and ceilings each year and to increase the operating rate ceilings by an additional one percent in fiscal year 2013. Language eliminates rebasing of rates in fiscal year 2013 and provides the Department of Medical Assistance Services authority to effect such a changes prior to the completion of the regulatory process.)

Health and Human Resources Subcommittee — Item 307 #9h

Health And Human Resources	**FY 12-13**	**FY 13-14**	
Department Of Medical Assistance Services	$2,551,725	$6,804,600	GF
	$2,551,725	$6,804,600	NGF

Language:

Page 225, line 49, strike "$7,438,749,436" and insert "$7,443,852,886".
Page 225, line 49, strike "$9,042,320,948" and insert "$9,055,930,148".
Page 239, after line 5, insert:
"The Department of Medical Assistance Services shall amend the 1915 (c) home- and community-based Intellectual Disabilities waiver to add 75 slots effective July 1, 2012 and an additional 125 slots effective July 1, 2013."

Explanation:

(This amendment provides funding to add 200 Medicaid home- and community-based waiver slots over the biennium for individuals with intellectual disabilities. This funding supports an addition to the number of slots required to comply with the U.S. Department of Justice Settlement Agreement.)

Health and Human Resources Subcommittee — Item 307 #10h

Health And Human Resources	**FY 12-13**	**FY 13-14**	
Department Of Medical Assistance Services	$371,950	$743,900	GF
	$371,950	$743,900	NGF

Language:

Page 225, line 49, strike "$7,438,749,436" and insert "$7,439,493,336".
Page 225, line 49, strike "$9,042,320,948" and insert "$9,043,808,748".
Page 239, after line 5, insert:

"LLL. The Department of Medical Assistance Services shall amend the Individual and Family Developmental Disabilities Support (DD) waiver to add 25 new slots effective July 1, 2012 and an additional 25 slots effective July 1, 2013. The Department of Medical Assistance Services shall seek federal approval for necessary changes to the DD applications to add the additional slots."

Explanation:

(This amendment provides funding to add 50 Medicaid home and community-based waiver slots over the biennium for individuals with developmental disabilities to reduce the current waiting list of 1,075 individuals. This funding supports an addition to the number of slots required to comply with the U.S. Department of Justice Settlement Agreement.)

Health and Human Resources Subcommittee — Item 307 #11h

Health And Human Resources	**FY 12-13**	**FY 13-14**	
Department Of Medical Assistance	$2,100,000	$0	GF
Services	$2,100,000	$0	NGF

Language:

Page 225, line 49, strike "$7,438,749,436" and insert "$7,442,949,436".

Page 229, line 42, after "7." insert "a."

Page 229, line 42, after "shall (i)", insert:

"exempt antidepressant, antianxiety and antipsychotic medications used for the treatment of mental illness from the Medicaid Preferred Drug List program; (ii)

Page 229, line 43, strike "and".

Page 229, line 44, strike "ii" and insert "iii"

Page 229, after line 50, insert:

"b. The Department of Medical Assistance Services shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the cost and utilization of behavioral health drugs paid for through the Medicaid fee-for-service program, Medicaid managed care programs and the Medicaid behavioral health administrative services organization. As part of this report, the Department shall assess the changes in the monthly cost, utilization and availability of these drugs in fiscal year 2013 compared to monthly expenditures and utilization in fiscal year 2012. The Department shall provide an interim report on November 1, 2012 and a final report on July 1, 2013."

Explanation:

(This amendment adds $2.1 million from the general fund and a like amount of

matching federal Medicaid funds the first year to continue the current exemption of antidepressant, antianxiety and antipsychotic medications used to treat mental illness from the Medicaid Preferred Drug List (PDL). Language is added for the Department of Medical Assistance Services to report to the General Assembly money committees on the cost and utilization of these drugs paid for through the Medicaid fee-for-service program, in Medicaid managed care programs and in the Medicaid behavioral health administrative services organization and to assess the changes in the cost and availability of these drugs.)

Health and Human Resources Subcommittee Item 307 #12h

Health And Human Resources

Department Of Medical Assistance Services — Language

Language:

Page 236, line 23, strike "children's".

Page 236, line 23, strike "children" and insert "individuals".

Explanation:

(This amendment would allow any individual with an intellectual disability who is currently enrolled in the Medicaid Elderly and Disabled with Consumer Direction Waiver program to receive respite care in a residential facility licensed to provide respite care and eliminates references to children only.)

Health and Human Resources Subcommittee Item 307 #13h

Health And Human Resources

Department Of Medical Assistance Services — Language

Language:

Page 233, line 33, after "Services and", insert:

"representatives of provider associations including the Virginia Network of Private Providers, the Virginia Coalition of Private Provider Associations, the Association of Community Based Providers and "

Explanation:

(This amendment adds several provider organizations to the list of organizations

that the Department of Medical Assistance Services shall work with to establish rates for Medicaid intensive in-home services based on quality indicators and standards.)

Health and Human Resources Subcommittee Item 307 #14h

Health And Human Resources

Department Of Medical Assistance Services — Language

Language:

Page 239, after line 5, insert:

"LLL. It is the intent of the General Assembly that the implementation and administration of the care coordination contract for behavioral health services scheduled to go in effect on July 1, 2012 be conducted in a manner that insures system integrity and engages public and private providers in the independent assessment process and the provision of services, that ethical and professional conflicts are avoided and that sound clinical decisions are made in the best interests of the individuals receiving behavioral health services. As part of this process the Department shall monitor the performance of the contract to insure that these principles are met and shall regularly seek input from stakeholders involved in the assessment, approval, provision and use of the behavioral health services provided as a result of this contract."

Explanation:

(This amendment adds language which lays out principles for the implementation and administration of the care coordination contract for behavioral health services through the Medicaid program. Language also requires the agency to monitor the contract to make sure the intent is met and that input is obtained from stakeholders on a regular basis.)

Health and Human Resources Subcommittee Item 307 #15h

Health And Human Resources

Department Of Medical Assistance Services — Language

Language:

Page 239, after line 5, insert:

"LLL. The Department of Medical Assistance Services shall work with

representatives of providers of home- and community-based care services to implement a methodology for home- and community-based utilization and review audits that shall include (i) the definition and use of a substantial compliance standard for documentation in case records, (ii) a methodology for calculating the assessment of payment retractions on a portion of overpayments based on the type of errors revealed in the audit, the existence of a compliance program, and the development of a corrective action plan, (iii) a methodology for calculating the assessment of payment retractions for errors in service billing that is based upon a "unit of service" rather than a claim that may likely include more than one unit of service. If during the utilization and review audit there is found to be suspected fraud, abuse or neglect it shall be reported to the appropriate agency. The Department of Medical Assistance Services shall report on revisions to the methodology for home- and community-based utilization and review audits to the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2013 and steps to implement the changes by January 1, 2013."

Explanation:

(This amendment requires the Department of Medical Assistance Services to work with providers to revise the current methodology for home- and community-based services utilization and review audits following the study required in Chapter 890 of the 2011 Acts of Assembly, Item 297, paragraph AAAA. The agency is required to report on the revisions to the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2013 and steps to implement the changes by January 1, 2013.)

Health and Human Resources Subcommittee — Item 307 #16h

Health And Human Resources

Department Of Medical Assistance Services — Language

Language:

Page 239, after line 5, insert:

"LLL. The Department of Medical Assistance Services shall amend its regulations, subject to the federal Centers for Medicaid and Medicare approval to strengthen the qualifications and responsibilities of the Consumer Directed Service Facilitator to ensure the health, safety and welfare of Medicaid home- and community-based waiver enrollees."

Explanation:

Amendment to House Bill 30, as Introduced

(This amendment is self-explanatory.)

Health and Human Resources Subcommittee Item 307 #17h

Health And Human Resources

Department Of Medical Assistance Services — Language

Language:

Page 235, strike lines 29 through 33 and insert:

"g. The department may seek the necessary waiver(s) and/or State Plan authorization under Title XIX of the Social Security Act to develop and implement a care coordination model for individuals dually eligible for services under both Medicare and Medicaid. The Secretary of Health and Human Resources shall establish a stakeholder advisory committee to support successful implementation of dual-eligible care coordination systems. This advisory committee will support the dual-eligible initiatives by identifying care coordination and quality improvement priorities, assisting in securing analytic and care management support resources (from CMS Innovation Center demonstration programs, private grants and other sources) and helping design and communicate performance reports. The Secretary's dual-eligible advisory committee will include balanced representation from health systems, health plans, long-term care providers, health policy researchers, physicians and others with expertise in serving the dual-eligible populations. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change."

Explanation:

(This amendment adds language to assist the Department of Medical Assistance Services with developing and implementing innovative care coordination models for high-need Medicaid recipients, especially those dually eligible for Medicare and Medicaid. Successful care coordination is expected to increase quality and lower costs for both the Medicare and Medicaid programs.)

Health and Human Resources Subcommittee Item 307 #18h

Health And Human Resources

Department Of Medical Assistance Services — Language

Amendment to House Bill 30, as Introduced

Language:

Page 238, strike lines 28 through 30 and insert:

"iii. Eliminate an automatic dismissal against DMAS for alleged deficiencies in the case summary that do not relate to DMAS's obligation to substantively address all issues specified in the provider's written notice of informal appeal. A process shall be added, by which the provider shall file with the informal appeals agent within 12 calendar days of the provider's receipt of the DMAS case summary, a written notice that specifies any such alleged deficiencies that the provider knows or reasonably should know exist. DMAS shall have 12 calendar days after receipt of the provider's timely written notification to address or cure any of said alleged deficiencies. The current requirement that the case summary address each adjustment, patient, service date, or other disputed matter identified in the provider's written notice of informal appeal in the detail set forth in the current regulation shall remain in force and effect, and failure to file a written case summary with the Appeals Division in the detail specified within 30 days of the filing of the provider's written notice of informal appeal shall result in dismissal in favor of the provider on those issues not addressed by DMAS.

Explanation:

(This amendment replaces one subsection of the proposed language in the Department of Medical Assistance Services which changes the process and procedures related to provider appeals. The proposed language would have eliminated an automatic default against the agency for deficiencies in the case summary for an informal appeal and replaced it with an unspecified process for a provider to object to the case summary and the agency to correct it. Language in this amendment (1) eliminates the automatic default against the agency for non-substantive deficiencies in the case summary, (2) specifies a process in which providers shall notify the agency of alleged non-substantive deficiencies in the case summary, and (3) provides the agency the opportunity to address or correct the alleged deficiencies. Language clarifies that there is no change in the other substantive requirements related to issues addressed in the case summary.)

Health and Human Resources Subcommittee — Item 307 #19h

Health And Human Resources

Department Of Medical Assistance Services — Language

Amendment to House Bill 30, as Introduced

Language:

Page 239, after line 5, insert:

"LLL. On or before November 15, 2012 the Medicaid Fraud Control Unit within the Office of the Attorney General shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees detailing the unit's efforts to prevent Medicaid fraud and increase Medicaid recoveries, including details on the history of annual collections and estimated amounts to be identified and collected over the biennium. The report shall include the efforts to be undertaken as a result of the additional positions authorized in this Act and provide an update on the projected increase in Medicaid recoveries assumed for the Virginia Health Care Fund."

Explanation:

(This amendment requires a report from the Medicaid Fraud Control Unit within the Office of the Attorney General on efforts to prevent Medicaid fraud and increase Medicaid recoveries over the biennium. Staffing in the unit will increase over the biennium to enhance these efforts and recover additional Medicaid funds.)

Health and Human Resources Subcommittee — Item 310 #1h

Health And Human Resources

Department Of Medical Assistance Services — Language

Language:

Page 240, after line 53, insert:

"I. It is the intent of the General Assembly that the Department of Medical Assistance Services exercise the full extent of federal flexibility in excluding and removing providers as needed to ensure Medicaid program integrity in compliance with federal and state statutes. The department shall develop a plan to implement programmatic changes to obtain accurate and timely provider information from licensure agencies, to require criminal background checks, to develop a valid risk assessment instrument that can be used to measure patient risk and withstand provider appeals, to verify the physical presence of providers, and to determine how additional provider information required by health care reform can be used to strengthen program integrity activities, among others. The department shall report on the plan to the House Appropriations and Senate Finance Committees by December 1, 2012."

Explanation:

Amendment to House Bill 30, as Introduced

(This amendment adds language which would require the Department of Medical Assistance Services (DMAS) to fully utilize the authority granted by the federal government to exclude or remove providers from its network in certain instances. A recent report of the Joint Legislative Audit and Review Commission found that DMAS is not fully utilizing the authority granted by the federal government to exclude or remove providers from its network. Federal and state law set forth criteria for the exclusion and removal of Medicaid providers from the fee-for-service network. Federal law requires certain exclusions, and allows states to use others. For example, mandatory federal criteria to exclude and remove providers from its fee-for-service network include: (i) the commitment of Medicaid or Medicare fraud, (ii) a conviction of patient abuse or other offenses that pose a risk to Medicaid patients, or (iii) exclusion by the federal government. In addition, the Code of Virginia excludes providers who have been convicted of a felony or who do not meet certification, licensure, or education requirements of Virginia licensing boards. With the implementation of federal health care reform, states will be required to collect more information during the provider enrollment process; however, the law does not address whether states should act on the information. Currently, few providers are excluded or removed from providing Medicaid services by DMAS, and those that are removed are almost exclusively due to felonies or lack of licensure. Attempts to exclude based on risk to patients have generally not withstood provider appeal. Further, DMAS does not verify the physical presence of new providers to ensure that they are valid providers, which has been found to be the cause of fraudulent activity in other states. DMAS relies on accuracy and timeliness of information from licensing and federal agencies, and does not conduct criminal background checks to ensure that prior history does not suggest potential risk to patients.)

Health and Human Resources Subcommittee — Item 310 #2h

Health And Human Resources

Department Of Medical Assistance Services — Language

Language:

Page 240, after line 53, insert:

"I. The Department of Medical Assistance Services shall develop a plan to implement an Administrative Disqualification Hearing process to increase the Commonwealth's ability to disqualify individuals from Medicaid who have committed fraud but who would otherwise not be prosecuted. The plan shall include

an assessment of the potential financial resources needed to implement the process and a determination regarding whether the process is permitted by federal and state laws and regulations, and whether changes to state laws or regulations are necessary to implement the process. The department shall report on the plan to the House Appropriations and Senate Finance Committees by November 1, 2012."

Explanation:

(This amendment adds language requiring the Department of Medical Assistance Services to develop a plan to implement an Administrative Disqualification Hearing process to increase the state's ability to disqualify individuals from Medicaid who have committed fraud but who would otherwise not be prosecuted. A recent study by the Joint Legislative Audit and Review Commission indicated that the Medicaid program could benefit from the implementation of an Administrative Disqualification Hearing process to reduce recipient fraud, similar to that used with a number of benefit programs administered by the Department of Social Services such as, the Supplemental Nutrition Assistance Program, the Temporary Assistance to Needy Families program and the child care subsidy program.)

Health and Human Resources Subcommittee Item 315 #2h

Health And Human Resources

Grants To Localities Language

Language:

Page 245, line 48, after "T.", insert "1."

Page 245, line 50, after "purpose of", insert:

"addressing the settlement agreement reached between the United States Department of Justice and the Commonwealth of Virginia to ensure compliance with Title II of the Americans with Disabilities Act, as interpreted by Olmstead v. L.C., 527 U.S. 581 (1999)."

Page 245, line 50, strike "expanding access to community-based"

Page 245, strike lines 51 through 53.

Page 245, after line 53, insert:

"2. The Department of Behavioral Health and Developmental Services shall provide an annual report on its plan to allocate funding in the Trust Fund to the Chairmen of the House Appropriations and Senate Finance Committees beginning on July 15, 2012. The report shall include detailed information on funding to enhance community services required under the settlement agreement, including information

on the progress of achieving objectives set forth in the agreement."

Explanation:

(This amendment modifies language in the introduced budget specifying the uses of the Behavioral Health and Developmental Services Trust fund. Language which broadly directs the use of the Trust Fund is replaced with language directing the Fund to be used to address the requirements specified in the U.S. Department of Justice settlement agreement with the Commonwealth. Additional language requires the Department of Behavioral Health and Developmental Services to provide an annual report on its plan to allocate funding for these requirements and report on progress in achieving the objectives set out in the agreement.)

Health and Human Resources Subcommittee — Item 336 #1h

Health And Human Resources	**FY 12-13**	**FY 13-14**	
Department Of Social Services	($100,000)	$0	GF
	($100,000)	$0	NGF

Language:

Page 253, line 38, strike "$34,888,327" and insert "$34,688,327".

Page 254, after line 27, insert:

"D. The Department of Social Services shall revise the current schedule for the issuance of federal Supplemental Nutrition Assistance Program (SNAP) benefits for new enrollees. The department may spread out the issuance of SNAP benefits over nine calendar days with payments occurring on the first, fourth, seventh, and ninth day of the month. The transition to this revised schedule of payments shall be completed by no later than December 1, 2012."

Explanation:

(This amendment reduces $100,000 from the general fund and $100,000 in nongeneral funds contained in the introduced budget to stagger the issuance of Supplemental Nutrition Assistance Program (SNAP) benefits for all current recipients of SNAP benefits over a nine day period. Instead, language is added to stagger the issuance of SNAP benefits for new enrollees only, which will result in no disruption in the receipt of food benefits for current recipients and will not result in additional significant costs to the program to implement the change in the issuance schedule.)

Health and Human Resources Subcommittee — Item 341 #1h

Health And Human Resources

Department Of Social Services — Language

Language:

Page 259, after line 25, after "System" insert:

"including the development of an end-to-end data tracking system. The Commissioner of the Department of Social Services shall provide an interim report on its progress to develop the Virginia Child Protection Accountability System by September 1, 2012 and annually until the System is completed to the Chairmen of the House Appropriations and Senate Finance Committees."

Explanation:

(This amendment adds language specifying the use of appropriations to support the Child Protection Accountability System to develop an end-to-end data tracking system and to provide interim and annual progress reports until the system is completed.)

Health and Human Resources Subcommittee — Item 3-1.01 #1h

Transfers

Interfund Transfers — Language

Language:

Page 391, after line 3, insert:

"On or before June 30 each year, the State Comptroller shall transfer $890,000 the first year and $890,000 the second year to the general fund from the $2.00 increase in the vital records fee contained in the Department of Health's Vital Records and Health Statistics Program (40400)."

Explanation:

(This amendment restores language eliminated in the introduced budget which transferred two dollars from the vital records fee to the general fund to be used for health care purposes. This language mirrors existing language contained in Chapter 890 of the 2011 Acts of Assembly.)