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HOUSE BILL NO. 758

Offered January 11, 2006

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A BILL relating to medical assistance services; application for certain waiver.

Patrons—Hamilton, Athey, Byron, Callahan, Cline, Cosgrove, Dudley, Gear, Gilbert, Hurt, Kilgore, Landes, Lingamfelter, Lohr, McQuigg, Morgan, O'Bannon, Peace, Rapp, Rust, Sherwood and Welch

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. § 1. Medical assistance services; certain waiver required.

A. By January 1, 2007, the Department of Medical Assistance Services (DMAS) shall prepare, submit, and seek approval of an application for a research and demonstration project waiver pursuant to Section 1115 of Title XIX of the Social Security Act, as amended, to reform Virginia's Medicaid program that shall include fundamental elements to move toward greater emphasis on the state's role in purchasing healthcare services, leveraging the forces of the marketplace to customize services to meet the needs of Virginia's various Medicaid populations, enhancing personal responsibility and empowering individuals to manage their healthcare, bridging public and private coverage, and containing the growth of Medicaid expenditures in the Commonwealth.

To address these fundamental elements, the Section 1115 waiver application shall include, but need not be limited to, the following concepts:

1. Enhanced benefits accounts (which may be named healthcare savings accounts) for (i) individuals with chronic diseases or at risk of having or developing one or more chronic diseases (ii) for whom healthcare costs are or may become high and (iii) whose current or future health may be improved through a disease management program focused on identification of chronic illnesses, incentives for healthy behavior, and training in effective and appropriate self-care or (iv) individuals wishing to exercise the option to purchase private health insurance through their employer as described in subdivision 4.

2. Disease management programs or other behavior modification activities, a system of monetary incentives for Medicaid recipients to make healthy decisions and to engage in self-management of their healthcare, the deposit of incentive funds in enhanced benefits accounts to be accessed by enrollees to purchase healthcare services or items that are not covered under Virginia Medicaid and will assist enrollees in being personally responsible for their own healthcare.

3. Risk-adjusted premiums for Medicaid recipients enrolled in Medicaid managed care organizations (MCOs), developed with two components, comprehensive and catastrophic, and calculated to be actuarially comparable to currently covered services under the Virginia State Plan for Medical Assistance. The actuarially developed risk-adjusted premiums shall be designed to reduce adverse selection and provide incentives for cost containment through identification of chronic illness before the recipient becomes seriously ill because of lack of treatment.

4. Employer-sponsored insurance options, for recipients who have access to such insurance, that provides such individuals with enhanced benefits accounts having deposits of the actuarially prescribed amount referenced in subdivision 3 that may be used to purchase private health insurance through their employer, and requires these individuals to assume any costs of private health insurance that is not covered by the Medicaid premium.

5. Transitioning of all recipients remaining in the fee-for-service program to enrollment in MCOs.

6. Requiring all MCOs to implement electronic funds transfer technology to streamline payment procedures, reduce costs, avoid fraud and abuse, and instill personal responsibility in recipients.

7. Implementing electronic benefits cards with all waiver enrollees for accessing enhanced benefits accounts, MCO services or purchasing private health insurance through their employers.

B. Prior to preparing and submitting the Section 1115 waiver application, the Director of the Department of Medical Assistance Services shall:

1. Prepare a concise and precise statement of the concept of fundamental elements listed in subsection A that is focused on bridging public and private coverage through person-centered planning, individual budgeting, and self-directed quality assurance and improvement. The concept phase of the application process shall address Medicaid reform in Virginia and how the waiver will enhance personal responsibility, improve the efficiency of the Department of Medical Assistance Services, and slow the growth in the Commonwealth's Medicaid eligible population or reduce the costs of long-term care for Medicaid recipients.

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HB758

58 2. Consult with the Centers for Medicare and Medicaid Services concerning the concept of the
59 Section 1115 waiver application.

60 3. Establish criteria for determining eligibility for enrollment in the waiver.

61 4. Design a process, amounts, and specific criteria for the award of incentive funds that can be
62 earned by or awarded to enrollees.

63 5. Develop a process for establishing enhanced benefits accounts into which the incentive funds may
64 be deposited and from which enrollees may access the funds.

65 6. Determine the services or items and identify insurance plans for which the funds in the enhanced
66 benefits accounts may be used by enrollees.

67 7. Provide a mechanism by which enrollees who lose Medicaid eligibility while enrolled in the
68 waiver may retain access to the money in their enhanced benefits accounts but will only be eligible for
69 the Medicaid waiver for the purpose of depleting the funds in the enhanced benefits account and will
70 not receive any other Medicaid services.

71 8. Identify contractors (a) for the establishment and management of the enhanced benefits accounts;
72 (b) for the development of individual disease management plans, including training of enrollees; and (c)
73 for implementation of the electronic funds transfer technology.

74 9. Clarify and negotiate with the Centers for Medicare and Medicaid Services on the components of
75 the waiver, including administration, eligibility, coverage and benefits, quality assurance, financing,
76 systems support, accountability, auditing, evaluation and reporting.

77 10. Develop and submit to the House Committees on Appropriations and Health, Welfare, and
78 Institutions and the Senate Committees on Education and Health and Finance estimates of the costs and
79 cost savings for implementation of the waiver.

80 C. Neither this act nor any new or revised project that may be, but is not required to be,
81 implemented pursuant to this act shall be construed as creating any legally enforceable right or
82 entitlement to enrollment in an enhanced benefit account program, the Virginia Plan for Medical
83 Assistance Services, or Title XIX of the Social Security Act, as amended, on the part of any person or to
84 create any legally enforceable right or entitlement to participation in any program by any person.

85 **2. That, upon the approval by the Centers for Medicare and Medicaid Services of any application**
86 **for a Section 1115 waiver pursuant to this act, expeditious implementation of the waived services**
87 **shall be deemed to be an emergency situation in accordance with § 2.2-4002 of the Administrative**
88 **Process Act of the Code of Virginia; therefore, to meet this emergency situation, the Board of**
89 **Medical Assistance Services or the Director, acting on the Board's behalf, shall promulgate**
90 **emergency regulations to implement the waiver.**

91 **3. That, in order to avoid costs as much as possible during the regulatory process, the Board of**
92 **Medical Assistance Services shall, when in compliance with the Administrative Process Act**
93 **(§ 2.2-4000 et seq. of the Code of Virginia), notify, distribute, and provide public access and**
94 **opportunity for comment via electronic media, including but not limited to, posting documents to**
95 **and receiving comments via the Department's website, by e-mail, and fax. The Board shall,**
96 **however, continue to provide public notice and participation to those persons who do not have**
97 **access to the Internet or other forms of electronic media.**