Nebraska Home and Community–Based Services (HCBS) Spending Plan

Quarterly Update

OCTOBER 15, 2021

Nebraska Department of Health and Human Services

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Pete Ricketts, Governor

October 15, 2021

Jennifer Bowdoin
Director, Division of Community Systems Transformation
Center for Medicaid & CHIP Services (CMCS)
7500 Security Blvd
Baltimore, MD 21244

Dear Director Bowdoin:

The Nebraska Department of Health and Human Services (DHHS) would like to thank the Centers for Medicare and Medicaid Services (CMS) for its partial approval of our Home and Community Based Services (HCBS) spending plan, which will allow us to begin drawing enhanced federal financial participation for certain HCBS expenditures. In order to allow the rest of our plan to move forward, DHHS is happy to provide additional information as requested. DHHS is submitting the attached information as both its quarterly spending plan update and as a direct response to the letter CMS sent on September 30, 2021.

As outlined in the general considerations in your letter, Nebraska acknowledges and agrees that it will notify CMS if we propose changes to our HCBS spending plan to enhance, expand, or strengthen HCBS under ARP Section 9817 in such a way that:

- *Are focused on services other than those listed in SMD# 21-003 Appendix B or that could be listed in Appendix B.*
- *Include room and board (which CMS would not find to be a permissible use of funds); and/or*
- *Include activities other than those listed in Appendices C and D.*

DHHS is hoping to schedule a technical assistance call with CMS in regard to some aspects of our HCBS spending plan, and DHHS thanks CMS in advance for this assistance. DHHS also attests that it is not requesting changes to existing HCBS programs.

As indicated in our initial spending plan, Nebraska DHHS, as Nebraska's single state agency for Medicaid, serves as the Operating Agency for the HCBS ARP initiatives. Jeremy Brunssen, Deputy Director for Finance and Program Integrity with the Division of Medicaid & Long-Term Care, serves as the primary contact for these initiatives. He can be reached at Jeremy.Brunssen@Nebraska.gov or (402) 540-0380.

Sincerely,

Kevin Bagley, Director
Division of Medicaid & Long-Term Care
Nebraska Department of Health and Human Services

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Grants to agencies to purchase telehealth equipment	
Description	Funding for providers to purchase technology that will support provision of direct clinical services through telehealth and telemonitoring for two-way audio/video communication or technology for asynchronous management of chronic diseases. Providers would need to develop protocols for the utilization of the technology, ensure it is HIPAA compliant, and meet all state and federal regulations for the use of technology for telehealth and telemonitoring. DHHS will require providers to submit an application form and proposal that includes the services to be provided, technology overview, and budget request. Approved providers will need to maintain invoice records to submit to the state for an audit post-program implementation.
Timeframe	Program will be rolled out 6 months from CMS approval of initial spending plan. Providers would have another 6 months to submit their funding requests.
How it enhances or expands Medicaid HCBS	Expands the use of technology and telehealth. Provides specialized supplies and equipment to agencies, which will allow greater access to HCBS through telehealth. Telehealth is especially critical in rural and other remote areas of the state.
Additional Narrative (10/2021)	Grants to agencies to purchase telehealth equipment are targeted at providers who are delivering services that are listed in Appendix B of SMD# 21-003 if the services can be delivered by telehealth. Services are only eligible to be delivered through telehealth if the service does not require hands-on care, does not put the patient in harm by providing the service through telehealth, and the service description can be met by providing the service through telehealth. An example of services not eligible for a telehealth grant would be personal care services that have to be provided in-person and requires hands-on care or are required to be provided by immediate supervision of the patient. Grants to agencies or providers to purchase telehealth equipment will also be considered for providers not listed in Appendix B if providing telehealth equipment will facilitate keeping the patient in their home or community setting. Cases may include a grant to a behavioral health provider in a frontier area that serves patients without transportation who would be unable to attend therapy and may relapse without that treatment. Equipment purchased with these grants may also be used for encounters for medication reviews or mental status exams, or occupational therapy to observe a patient in their home environment and provide rehabilitation services to ensure they can stay in their home or community-based setting. DHHS does not intend to cover ongoing connectivity cost as part of these telehealth equipment grants.
Initiative Sustainability Beyond 2024	This is a grant program that will have an established cap amount, and once the cap is reached no further grants will be awarded.

Convert or renovate facilities for other purposes or enhance purpose

Description	Make available a sum of money for physical improvements/conversions of established structures that include modernization and facility changes to support care provision to specific patient populations. Examples: • Nursing Facility to Rehabilitation facility, Day Rehabilitation, Assisted Living Facility • Therapeutic Group Home • Qualified Residential Treatment Program updates or conversion • Respite spaces Providers would be required to submit their project design and plan with cost estimates. The plan must identify how the project improves the client experience and the specific patient population for the facility type. Financial allocation would be done through the establishment of project progress benchmarks and incremental distribution. Specific project benchmarks would be outlined with grant approval, and 25 percent of overall grant amount would be provided at start-up. Twenty-five percent would be distributed upon receipt of documentation of successful completion of benchmarks for stage 2, and 50 percent upon completion.
Timeframe	Six months for program roll out. Provider plans must be submitted within 2 years from project initiation.
How it enhances or expands Medicaid HCBS	Expanding provider capacity by providing nursing facilities or other institutional settings with funding to convert to assisted living facilities or to provide adult day services, respite care, or other HCBS. This would incentivize investment in communities to support persons in need of HCBS services, as well as increase potential services and access points across the state.
Additional Information (10/2021)	Nebraska plans to pay for permissible capital investments as part of this proposal. The intent of this proposal is to expand access to HCBS in the community specific to that community's needs and opportunities. Where applicable, we will require applicants to demonstrate compliance with the final settings rule. Developing community housing and services by leveraging and transforming existing and underutilized local infrastructure (especially in rural or frontiers areas) facilitates community inclusion and personal choice within participants' existing communities, which enhances, expands, and strengthens HCBS as described in section 9817 of the ARP.
Initiative Sustainability Beyond 2024	This is a grant program that will have an established cap amount and once the cap is reached no further grants will be awarded.

Funding of non-federal share for Administration on Community Living (ACL) grants for the State Unit on Aging	
Description	ARP grants from the ACL included all program areas usually funded by annual formula grants. The ARP grants require state and local match (whereas other emergency funding did not). The ACL ARP awards are about $7.7 million, and require a non-federal share match of 15 percent and 25 percent (local and state), totaling about $1.4 million overall. This is an unexpected expense at the state and local level, as many programs are grant-funded and have limited outside resources. This proposal is to fund the non-federal share of the ACL ARP grants from the FMAP savings from the HCBS enhanced FMAP, which benefit HCBS and Medicaid participants and the Medicaid system. The need is for the ACL project period, 4/1/21 – 9/30/24, with the additional 10 percent FMAP funds requiring to be spent by 3/31/24. The federal award is to be expended prior to the end of the enhanced FMAP expenditure allowed date of 3/31/24. Funds will support Area Agencies on Aging (AAAs) and local programs managed by the agencies that serve seniors across the state.
Timeframe	Issue sub-awards to AAAs by 10/1/21 (with spending authorized through 3/31/24).
How it enhances or expands Medicaid HCBS	Increases access to HCBS services.
Additional Information (10/2021)	Additional information related to CMS's questions on this topic are included in Appendix A (pg. 10).
Initiative Sustainability Beyond 2024	This would be a one-time coverage of the non-federal share of the ACL ARP grants to be expended up until 3/31/24; therefore, there would not be any sustainability issues present.

Procure a fiscal intermediary and change the rate methodology for personal assistance services and chore services

Description	This proposal is for two separate, but related activities. This would first pay for the costs of a rate study for PAS and chore services to develop a new methodology for establishing payment rate for these services. Second, this proposal would fund the implementation associated with a third party fiscal agent or fiscal intermediary who would process payments for these services when billed. These activities are eligible for administrative federal match at 50 percent.
Timeframe	Development of new rate methodologies: 12-15 months Procurement and implementation of a fiscal intermediary: 24-30 months
How it enhances or expands Medicaid HCBS	Addresses provider complaints about PAS and chore services reimbursement rates. Increases efficiency of the state government to process and pay HCBS providers.
Additional Information (10/2021)	Nebraska's plans to procure a fiscal intermediary and change the rate methodology for Personal Assistance Services and Chore services will not result in reduced provider payment rates as compared to those in place as of April 1, 2021. The investments made to complete these activities will strengthen HCBS, as a fiscal intermediary will provide additional support and more resources to these providers than what is currently in place today. Furthermore, completing a rate study and formal analysis, which has not been done in many years, will inform DHHS on the state of Medicaid payments for these HCBS. This information could then be used to make future decisions regarding payment rates that can positively impact access for these services.
Initiative Sustainability Beyond 2024	**Procuring a fiscal intermediary**: This would add some new, ongoing costs to the Medicaid program, while providing savings as a result of sun setting legacy functionality from Nebraska's current HCBS claim payment system. Nebraska sees this as an opportunity to modernize pursuant to the Medicaid technology roadmap, which would improve the provider experience. **Changing rate methodologies**: In the event the rate study determines that rates need to be increased in an amount that cannot be absorbed within current appropriations, the state would follow currently established processes to facilitate funding of any necessary rate adjustments.

Appendix A: CMS Requests for Additional Information

Request: Clearly indicate whether the "grants to agencies to purchase telehealth equipment" are targeted at providers delivering services that are listed in Appendix B of the SMDL or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit). If this activity is not focused on providers that are delivering services listed in Appendix B or that could be listed in Appendix B, explain how the activity enhances, expands, or strengthens HCBS under Medicaid.

DHHS Response: Additional information is included with the narrative for this spending proposal on page 5.

Request: Clearly indicate whether your state plans to pay for ongoing internet connectivity costs as part of the "grants to agencies to purchase telehealth equipment" activity. Ongoing internet connectivity costs are permissible uses of funds to enhance, expand, or strengthen HCBS under section 9817 of the ARP. However, states must demonstrate how ongoing internet connectivity costs would enhance, expand, or strengthen HCBS. Further, approval of ongoing internet connectivity costs in ARP section 9817 spending plans and narratives does not authorize such activities for FFP.

DHHS Response: Additional information is included with the narrative for this spending proposal on page 5.

Request: Clearly indicate whether your state plans to pay for capital investments as part of the "convert or renovate facilities for other purposes or enhance purpose" activity. Capital investments costs are permissible uses of funds to enhance, expand, or strengthen HCBS under section 9817 of the ARP. However, states must demonstrate how capital investments would enhance, expand, or strengthen HCBS and ensure that capital investments will result in settings that are fully compliant with the home and community-based settings criteria. Further, approval of capital investments costs in ARP section 9817 spending plans and narratives does not authorize such activities for FFP. Additionally, please note that settings that are in the same building as a public or private institution or on the same grounds of or adjacent to a public institution, are considered presumptively institutional under the HCBS settings final rule (42 CFR 441.301(c)(5)). For newly constructed settings that are presumptively institutional, states should follow guidance released in the CMCS Informational Bulletin (CIB) dated August 2, 2019 regarding Heightened Scrutiny Review of Newly Constructed Presumptively Institutional Settings.

DHHS Response: Additional information is included with the narrative for this spending proposal on page 6.

Request: Regarding the "non-federal share for Administration on Community Living (ACL) grants for the State Unit on Aging" activity, CMS would like to schedule a call with the state to discuss how the state intends to use ARP section 9817 funds under each part of the Older Americans Act Title III program.

DHHS Response: Specific questions are included with each response.

Are there any waitlists in place for the four approved section 1915 (c) Nebraska waivers?
There is only a waitlist for one of the state's two DD Waivers, and none for the AD and TBI Waiver.

- Comprehensive Developmental Disabilities (CDD) Waiver

How many current Older Americans Act (OAA) Title III clients are on each of the four section 1915 (c) HCBS waiver waitlists?
There are 36 clients on the Comprehensive Developmental Disabilities (CDD) Waiver waitlist age 60+. Of those 36, there are 2 clients receiving OAA services.

Is there information available by Title III Part and/or service?
DHHS is awaiting a technical assistance call with CMS to be able to sufficiently answer this question.

Is there an OAA Title III waitlist? If so, how many clients are on both the Title III and the 1915(c) HCBS waiver waitlist?
There are waitlists in 3 service areas. The totals are as follows:

Agency	# Waitlist	Notes
AOWN, Scottsbluff	0	
AP, Lincoln	35	Case management
BRAAA, Beatrice	-0-	
ENOA, Omaha	-0-	When the III-E program is at capacity no additional referrals are accepted until an opening is available
MAAA, Hastings	-0-	
NENAAA, Norfolk	61	III-B Chore, Personal Care, Homemaker, Material Distribution, and III-E services of Respite, and Supplemental Services. Not accepting applications at this time due to funding/provider availability
SCNAAA, Kearney	25	Personal Emergency Response System (Lifeline); under the family caregiver program
WCNAAA, North Platte	-0-	

Funds may be used to better address the use of waitlists both for OAA and Waiver clients in these service areas and across the state. AAAs closely monitor clients, and assist them in applying for Medicaid if/when they meet financial criteria.

Are additional Medicaid waiver waitlist clients anticipated to be served with the additional funding?
This initiative is not intended to reduce the number of individuals on the DD waitlist.

How will ARP section 9817 funds be used to enhance, expand, or strengthen HCBS under the Medicaid program, under each Part of OAA Title III program requiring a state match of the grant funds?

- **Part B – Supportive Services**
  - The Area Agencies on Aging (AAAs) are pursuing methods to enhance, expand, and strengthen the HCBS provider network and availability in their service areas to recover from the pandemic and better serve both Medicaid and OAA clients in their service areas. Recruitment of providers for this vulnerable population is crucial to the continuance of services to help older Nebraskans remain in the community of their choice. AAAs facilitate the coordination of community-based, long-term care services for older persons living at home and who are at risk of institutionalization due to their inability to function independently. AAAs will work with older persons who are patients in hospitals or long-term care facilities who have a desire to return to the community of their choice if community-based services are made available to them. AAAs assist older adults in applying for public benefits. AAAs in Nebraska, as elsewhere, were significantly affected by the pandemic. Providers were often in the most "at risk" groups early on, and ceased participation in programs from both paid and unpaid positions.
- **Part C1 and C2 – Congregate Meals and Home Delivered Nutrition programs**
  - The AAAs are pursuing methods to enhance, expand, and strengthen the network and availability of workers and volunteers in the nutritional programs within each of their service areas. Recruitment of providers for this vulnerable population is crucial to the continuance of services to help older Nebraskans remain in the community of their choice. All Nebraska AAAs provide congregate and home-delivered meal and nutrition programs through a variety of operational structures. Traditional senior center congregate meals, restaurant vouchers, meal sites, home delivered, to-go meals (permissible during the pandemic), and shelf-stable food boxes. These programs will be further enhanced, expanded, and strengthened for the collective older population in the communities served – both through OAA and Waiver programs. Meal needs for medical purposes are addressed at the local level and managed by AAA staff. AAAs in Nebraska, as elsewhere, were significantly affected by the pandemic. Providers involved in nutrition programs were often in the most "at risk" groups early on, and frequently ceased participation in programs, both paid and unpaid. Often, when a cook becomes ill, the meal site will close for a period of time. Meals are then brought in from a neighboring facility.
  - Medicaid waiver provides home delivered meals. This is available statewide. These are often managed by the AAAs at the local level.
- **Part E – Caregiver programs**
  - The AAAs are pursuing methods to enhance, expand, and strengthen the network and availability of workers and volunteers in the caregiver programs within each of their service areas. Recruitment of providers for this vulnerable population is crucial to the continuance of services to help older Nebraskans remain in the community of their choice. A number of caregiver programs are available throughout the state. Each service area provides caregiver programs. AAAs coordinate caregiver programs locally, which enhances the availability and support of HCBS Waiver programs in addition to OAA programs. AAAs in Nebraska, as elsewhere, were significantly affected by the pandemic. Providers involved in caregiver and respite programs were often in the most "at risk"

groups early on, and ceased participation in programs, both paid and unpaid. This issue continues today, and a robust recruitment, retention, and training program will support the Medicaid and OAA clients on an ongoing basis.

- **Title III State Plan and Area Plan Administration**
  - The State proposes that no funds from the ARP be used for state plan or area plan administration at this time.

Identify the services that are provided under each Part of the Title III program requiring a state match of the grant funds:

- **Part B – Supportive Services:**
  - Service
  - Personal Care
  - Homemaker
  - Chore
  - Case Management
  - Assisted Transportation
  - Transportation
  - Information & Assistance
  - Health Promotion/Disease Prevention (Non Evidence-Based)
  - Legal Assistance
  - Telephone & Visiting
  - Senior Center Hours
  - Material Distribution
  - Social Activities
  - Outreach
  - Information Services
- **Part C1 and C2 – Congregate Meals and Home Delivered Nutrition programs:**
  - Home Delivered Meals
  - Congregate Meals
  - Nutrition Counseling
  - Nutrition Education
- **Part E – Caregiver programs:**
  - Caregiver Respite
  - Caregiver Assistance: Case Management
  - Caregiver Assistance: Information & Assistance
  - Caregiver Counseling
  - Caregiver Training
  - Caregiver Supplemental Services
  - Caregiver Support Groups
  - Caregiver Outreach
  - Caregiver Information Services

Request: Clearly indicate that the activity to "procure a fiscal intermediary and change the rate methodology for personal assistance services and chore services" will not result in reduced provider payment rates as compared to those in place as of April 1, 2021.

DHHS Response: Additional information is included with the narrative for this spending initiative on page 8.

Appendix B: Calculation of Supplemental Funding

Nebraska has not yet claimed any enhanced FMAP, nor spent any increased FMAP pursuant to the submitted initial spending plan, as the state has been awaiting formal approval. Nebraska provided the estimated FFP by proposed spending activity that the State believes would be eligible for match in the chart submitted in the initial spend plan.

Nebraska does not plan to claim additional enhanced FMAP for the grants for telehealth equipment, nor conversion of any facilities to expand HCBS services in communities. However, Nebraska does plan to use FFP for the fiscal intermediary and HCBS rate study at 50 percent. Nebraska is not claiming additional FFP for the funding of the non-federal share of ACL grants for the State Unit on Aging.

Nebraska is providing the below chart, which provides a breakdown of the estimated FMAP that Nebraska will be eligible to claim pursuant to ARP Section 9817. With the partial approval of the spending plan received from CMS, Nebraska will begin claiming the enhanced FMAP and will update this report in future quarterly updates with the actual amounts claimed, as they are claimed on quarterly CMS-64 reports.

Calculation of Supplemental Funding from 10% FMAP Increase
ARP Sec. 9817; eff. 4/1/21 to 3/31/22

	*Estimated	*Estimated	*Estimated	*Estimated	
Federal Fiscal Year	**FFY 21**	**FFY 21**	**FFY 22**	**FFY 22**	
Quarter	**Q3: Apr to Jun**	**Q4: Jul to Sep**	**Q1: Oct to Dec**	**Q2: Jan to Mar**	**Total**
ASSUMPTIONS					
Qualifying Baseline Total Costs					
Home and Community Based Services	$ 146,406,685	$ 146,406,685	$ 146,406,685	$ 146,406,685	$ 585,626,740
Case Management Services	$ 12,232,210	$ 12,232,210	$ 12,232,210	$ 12,232,210	$ 48,928,840
Rehabilitation Services	$ 64,850,000	$ 64,850,000	$ 64,850,000	$ 64,850,000	$ 259,400,000
Other	$ -	$ -	$ -	$ -	$ -
Subtotal: Baseline	$ 223,488,895	$ 223,488,895	$ 223,488,895	$ 223,488,895	$ 893,955,580
IMPACT TO FUNDING					
Current Funding					
State Match (-10% of cost)	$ (22,348,900)	$ (22,348,900)	$ (22,348,900)	$ (22,348,900)	$ (89,395,600)
Federal Match (+10% of cost)	$ 22,348,900	$ 22,348,900	$ 22,348,900	$ 22,348,900	$ 89,395,600
Subtotal: Current Funding	$ -	$ -	$ -	$ -	$ -