

American Rescue Plan: What You Need to Know

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About the National Health Law Program

- National non-profit law firm committed to improving health care access, equity, and quality for underserved individuals and families
- State & Local Partners:
 - Disability rights advocates – 50 states + DC
 - Poverty & legal aid advocates – 50 states + DC
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Overview of American Rescue Plan HCBS Provisions

The American Rescue Plan § 9817 provides a one-year 10% federal matching boost for HCBS, within following limits:

1. Only specific HCBS services are qualified for the 10% bump
2. Parameters of how states must reinvest those federal funds back into HCBS
3. States agree to maintenance of effort requirement until those funds are spent

Mechanics of the Enhanced Match

- Duration: April 1, 2021 through Mar. 31, 2022
- 10% boost in Federal Medical Assistance Percentage (FMAP) for HCBS services
 - On top of current 6.2% boost during the public health emergency
- Adds on top of most other FMAP boosts to a maximum of 95% FMAP
- Does not include HCBS administrative expenses

HCBS in the American Rescue Plan

Long list of services qualified for the 10% bump includes:

- Services provided via 1915(c) waivers
- Personal Care Services
- Community-based behavioral health services
- Private duty nursing
- Case management
- Home health care
- PACE services

Parameters for Reinvestment

- Must “enhance, expand, or strengthen HCBS under the State Medicaid program.”
- Long, non-comprehensive list of qualified activities
- States must develop and submit a spending plan and quarterly reports
 - CMS encourages stakeholder engagement
 - States expected to explain how they will sustain changes after Mar. 2024
 - CMS will publicly post summaries of all plans and reports
- First draft due by July 11, 2021, if state asks for an extension
 - Quarterly reports due 75 days prior to quarter beginning

Maintenance of Effort (MOE)

“Supplement, not Supplant”

Until the State fully spends funds equivalent to the federal match boost, it must maintain:

- **Eligibility standards, methodologies, or procedures** for HCBS programs & services no stricter than were in place April 1, 2021
- **HCBS services** – including the amount, duration and scope of services – available as of April 1
- **HCBS provider payment rates** no lower than those in place April 1

Expenditures can be made through March of 2024.

MOE must be in effect until expenditures exhausted.

Special Situation: HCBS and Managed Care

- Eligible expenses only include portion of the capitation rate attributable to qualified HCBS
- Under Medicaid Managed Care regulations, States may direct plans to pay minimum provider rates – 42 C.F.R. § 438.6(c)
 - CMS recently amended [guidance](#) on how these payment directives may be structured
 - **States must get prior approval from CMS** before implementing requirements that plans increase rates to HCBS providers
 - Tight timing!

Reinvesting in HCBS – Boosting the Boost

- If a state reinvests all or part of the matching boost back into qualified HCBS before March 31, 2022, the state can receive an additional enhanced match.
- Reinvestment only allowed once for enhanced match.
- Reinvestment in more services, increased eligibility, and/or increased provider rates will qualify for enhanced match.
- For states that use MLTSS, routing the reinvestment through MLTSS is most likely pathway to get this extra boost.

Ideas for Building HCBS Capacity: Workforce Development

- Supports for family caregivers
- Career pathways and training for direct care workers that would have long-term benefit
- Goal to reduce turnover and increase provider availability.
- CMS expects that an entity that receives increased payment will “will increase the compensation it pays its home health workers or direct support professionals.” (at 19)
 - Invest in restructuring payments to create better tiered wages?
 - Minimum wage increase?
 - Effect on self-directed HCBS participants?

Ideas for Building HCBS Capacity:

Strengthen HCBS Non-Disability Specific Settings

- Invest in community transitions and services to help people secure community housing
- Improving ongoing monitoring of HCBS settings
 - Few states have robust quality systems and staffing to monitor ongoing compliance with HCBS settings requirements

Ideas for Building HCBS Capacity: COVID-related Supports

- Improve access to PPE
- Improve access to vaccine for people with disabilities
- Access to hazard pay
- Investments in alternative service delivery models or other physical restructuring that reduce potential risk of exposure
- Provide assistive technologies to mitigate isolation

Other Ideas for Building HCBS Capacity

- Reduce/eliminate waiting lists
- Expand covered HCBS services or extend services to new populations
- Increase language assistance
- Adopt/expand HCBS quality measures

Maximizing Federal Dollars vs. Unique Opportunity to Invest

Maximizing Federal \$\$

Reinvest in services for which the state can claim FMAP

Reinvest quickly so that increased FMAP can be claimed on reinvestment from April 1, 2021 to March 31, 2022.

Long-Term Goals

Invest in programs that will have long-term benefit

Fill gaps that otherwise “enhance, expand, or strengthen HCBS under the state Medicaid program.”

Equal Reinvestment vs. Correcting Historical Inequities

- Should increased federal FMAP be reinvested equally into the programs that generated the increased federal funding (e.g. behavioral health services, services for IDD, services for elderly, children's services)

OR

- Should this opportunity be used to invest more in historically underfunded services

Note: "Historically underfunded services" will vary by state

Questions and Discussion

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