

OFFICE OF THE  
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**MEMORANDUM FOR EXECUTIVE APPROPRIATIONS COMMITTEE**

**FROM:** Clare Tobin Lence, Finance Manager

**DATE:** May 17, 2021

**SUBJECT:** Enhanced Federal Medical Assistance Percentage (FMAP) for Home and Community-Based Services (HCBS)

The American Rescue Plan Act (ARPA) provided for an optional 10% enhancement in the Federal Medical Assistance Percentage (FMAP) for Home and Community-Based Services (HCBS). The Centers for Medicare and Medicaid Services (CMS) has not yet released guidance but ARPA included the following provisions:

- Funds must supplement, not supplant, existing state spending.
- The enhanced FMAP is effective April 1, 2021-March 31, 2022.

The enhanced FMAP would apply to the following state programs:

- All home and community-based services [waiver programs](#).
- Home health and personal care services provided under accountable care organization and fee-for-service plans.

**The Departments of Health and Human Services estimate the enhanced FMAP would result in \$50,018,000 in additional federal funds one-time.** At the Executive Appropriations Committee (EAC) meeting, the agencies will present their proposed uses for the funds. Under UCA 63J-5-103(2)(a)(i), federal Medicaid funds are exempt from the federal funds approval process and limits but EAC may wish to consider acting on acceptance of these funds and if accepted, direct the uses of the funds.

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# AMERICAN RESCUE PLAN ACT (ARPA) HOME AND COMMUNITY BASED SERVICES (HCBS) IMPROVEMENT ACTIVITIES

Joint Proposal: Utah Departments of Health and Human Services

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## Overview

### ARPA - Sec. 9817 – 10% Enhanced FMAP for HCBS Improvement Activities

- Receive enhanced FMAP from **April 1, 2021 - March 31, 2022**
- Estimated savings of **\$72.5 million in General Fund** during this period
- Funds can be spent through **March 31, 2024**
- State must supplement, not supplant, existing state spending
- Depending on when they are spent, funds could pay for **\$272.1-\$379.2 million in new services**
- Services are only available for Medicaid members; non-Medicaid members are not eligible for these funds
- Departments recommend committing **\$145.1 million** on the following activities over the next three years:
  - **\$75.2 million** for supplemental payments to HCBS providers
  - **\$36.3 million** for HCBS services and one-time infrastructure projects
  - **\$30.1 million** for supplemental payments to behavioral health providers
  - **\$3.4 million** for supplemental payments to school based skill development providers
- Departments recommend additional review with the Legislature and stakeholders to determine actions on additional funding available

## Proposed Funding Uses

### Provide broad-based, limited-term supplemental quality incentive payments to HCBS providers (\$75.2 million over three years)

- Make supplemental quality incentive payments to providers for three years ending March 2024. Payments will be approximately equivalent to 5.0% of providers' current rates. Eligibility for quality incentive payments will require providers to attest to meeting certain quality/utilization requirements, such as:
  - Support direct-care workforce/family caregivers (flexibility for providers to determine use)
  - Support other COVID-19 related response/expenses
  - Incentivize COVID-19 vaccination of HCBS staff waiver participants
  - Assure any other federally required data/reporting requirement

### Support HCBS infrastructure improvements and services (\$36.3 million over three years)

- Use **\$4.8 million** one-time for specific HCBS Infrastructure Projects:

Specific HCBS One-time Projects	Funding Amount
Projects to Support Implementation of DLC Lawsuit – That will reduce reliance on ICFs, Incentivize ICFs to assist ICFs to move to become HCBS service providers. Pay for individuals to have trial placements in HCBS.	\$4,100,000
Study to Evaluate and Recommend Ways to Address Direct Services Workforce Crisis/Shortage and fund one-time projects/initiatives per recommendations resulting from the study	\$500,000

Develop Online Training Curriculum to Teach Families Techniques to Address Challenging Behaviors in the Home	\$200,000
<b>TOTAL</b>	<b>\$4,800,000</b>

Specific HCBS Services Over Three Years	Funding Amount
Continue Caregiver Compensation	\$26,034,000
Supports for Waiver Participants to Secure and Retain Housing	\$1,500,000
<b>TOTAL</b>	<b>\$27,534,000</b>

- Use **\$4.0 million** one-time for HCBS Infrastructure “grant” proposals from providers. Providers could submit HCBS infrastructure grant proposals to the Departments for the following purposes:
  - Projects that will assist the provider to fully comply with the federal HCBS Settings Rule
  - Projects to fully comply with federal Electronic Visit Verification requirements
  - One time purchases of equipment to increase waiver participant independence and community access(when services not otherwise available by any other funding source)
  - Other projects as proposed by providers that meet the intent of improving HCBS infrastructure
- The Departments will develop a menu of quality incentive programs/projects from which providers may choose. This process will be similar to the long-standing Nursing Facility Quality Incentive Payment Program implemented under the Medicaid program.

**Provide broad-based, limited-term supplemental quality incentive payments to behavioral health providers (\$30.1 million over three years)**

- Make supplemental quality incentive payments to providers for three years ending March 2024. Payments will be approximately equivalent to 5% of providers’ current rates. Eligibility for quality incentive payments will require providers to attest to meeting certain quality/utilization requirements, such as:
  - Incentivize COVID-19 vaccination of behavioral health staff
  - Support behavioral health providers, and their staff, including unlicensed but certified positions (flexibility for providers to determine use)
  - Support other COVID-19 related response/expenses
  - Assure compliance with any other federally required data/reporting requirement

**Provide broad-based, limited-term supplemental quality incentive payments to school based skill development providers (\$3.4 million over three years)**

- Make supplemental quality incentive payments to providers for three years ending March 2024. Payments will be approximately equivalent to 5% of providers’ current rates.

## Estimated Funding Amount

- The Centers for Medicare and Medicaid Services (CMS) Guidance released on May 13, 2021<sup>1</sup>. Discussions will occur the week of May 17, 2021 with CMS to seek answers to our questions on this funding. The Departments will clarify with CMS whether funds are available to assist Medicaid members on HCBS waiting lists with meeting critical one-time needs to prevent institutionalization. This proposal does not

<sup>1</sup> All proposals subject to CMS guidance on funding calculation, acceptable use, and reporting requirements

include funding for waiting list services but the Departments would include these services as options for discussion for the remaining funding if CMS indicates funds could be used in that way.

- Because the enhanced funding is only available through March 2022, the General Fund reinvestment generates more total funds to the state if all the funds are spent by March 2022. If all funds were spent by March 2022, it is estimated these enhanced funds could cover up to \$379.2 million in new spending.
- Departments’ recommended amounts are based on a more balanced spending of funds across three years and in light of providers’ ability to effectively use large increases in funds in a short period of time
- To ensure available funds are used by the end of the period, the Departments will closely monitor expenditures. If funds are unspent in one project area, the Departments will employ a mechanism to reallocate funds from one project area to another.

HCBS ENHANCED FMAP ESTIMATES				
HCBS Program – Agency	Average Annual Expenditures	General Fund Reinvestment <sup>2</sup>	Total Funds if spent by 3/31/22	Total Funds if spread 3 years
Aging Waiver – DHS	\$4,569,849	\$456,985	\$2,389,673	\$1,715,028
Acquired Brain Injury Waiver - DHS	\$9,240,700	\$924,070	\$4,832,162	\$3,467,961
Physical Disabilities Waiver – DHS	\$2,432,923	\$243,292	\$1,272,228	\$913,056
Community Supports Waiver - DHS	\$313,695,778	\$31,369,578	\$164,038,297	\$117,727,523
Community Transitions Waiver - DHS	\$975,210	\$97,521	\$509,958	\$365,988
Autism Services (EPSDT) – UDOH	\$17,512,542	\$1,751,254	\$9,157,686	\$6,572,317
Autism Waiver – UDOH	\$4,911	\$491	\$2,568	\$1,843
Tech Dependent Waiver – UDOH	\$3,507,369	\$350,373	\$1,834,079	\$1,316,288
State Plan Home Health (FFS) - UDOH	\$22,832,023	\$2,283,202	\$11,939,358	\$8,568,676
State Plan Personal Care (FFS) - UDOH	\$3,920,487	\$392,049	\$2,050,108	\$1,471,328

<sup>2</sup> The General Fund Reinvestment amount is the 10% reduction in General Fund needed as state match for these services through March 2022. According to ARPA and CMS, these savings will have to be reinvested into related services by March 2024.

Home Health / Personal Care (ACO) - UDOH	\$68,121,546	\$6,812,155	\$35,622,228	\$25,565,473
Medically Complex Children's Waiver - UDOH	\$815,735	\$81,574	\$426,566	\$306,139
New Choices Waiver - UDOH	\$53,634,465	\$5,363,446	\$28,046,620	\$20,128,587
<b>TOTAL</b>	<b>\$501,263,537</b>	<b>\$50,126,354</b>	<b>\$262,121,529</b>	<b>\$188,120,207</b>

<b>BEHAVIORAL HEALTH ENHANCED FMAP ESTIMATES</b>				
Behavioral Health Program	Average Annual Expenditures	General Fund Reinvestment	Total Funds if spent by 3/31/22	Total Funds if spread 3 years
Fee-For-Service	\$47,364,606	\$4,736,461	\$24,767,975	\$17,775,559
Prepaid Mental Health Plans (PMHP)	\$131,858,804	\$13,185,880	\$68,951,816	\$49,485,557
Integrated Care Plans (UMIC)	\$21,685,660	\$2,168,566	\$11,339,901	\$8,138,456
<b>TOTAL</b>	<b>\$200,909,071</b>	<b>\$20,090,907</b>	<b>\$105,059,692</b>	<b>\$75,399,572</b>

<b>SCHOOL BASED SKILLS DEVELOPMENT</b>				
School Based Skills Development	Average Annual Expenditures	General Fund Reinvestment	Total Funds if spent by 3/31/22	Total Funds if spread 3 years
School Districts	\$22,929,656	\$2,292,966	\$11,990,412	\$8,605,317
<b>TOTAL</b>	<b>\$22,929,656</b>	<b>\$2,292,966</b>	<b>\$11,990,412</b>	<b>\$8,605,317</b>

HCBS, Behavioral Health, and School-Based	Average Annual Expenditures	General Fund Reinvestment	Total Funds if spent by 3/31/22	Total Funds if spread 3 years
<b>GRAND TOTAL</b>	<b>\$725,102,264</b>	<b>\$72,510,226</b>	<b>\$379,171,633</b>	<b>\$272,125,096</b>