2022

Quarterly Report: Massachusetts Home and Community-Based Services (HCBS) Spending Narrative for Implementation of American Rescue Plan Act (ARPA), Section 9817

February 2022

Amended on February 22, 2022 per CMS request

Executive Office of Health and Human Services (EOHHS)

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February 22nd, 2022

Daniel Tsai
Deputy Administrator and Director
Center for Medicaid & CHIP Services (CMCS)
7500 Security Blvd
Baltimore, MD 21244

Dear Deputy Administrator and Director Tsai:

The Commonwealth of Massachusetts is pleased to submit the enclosed amended Quarterly Spending Plan and Narrative, modified from the Quarterly Report submitted on February 1st, 2022 in response to CMS' request for additional information on identified activities.

This Quarterly Report builds upon the Initial Spending Plan submitted on June 17th, 2021, the July Quarterly Spending Plan submitted on July 15th, 2021 and the October Quarterly Spending Plan submitted October 15th. This Quarterly Spending Plan provides an implementation update on activities as they relate to Massachusetts's proposed plan to enhance, expand, and strengthen home and community-based services (HCBS) under the Medicaid program using an estimated $526 million (M) in federal financial participation (FFP) pursuant to Section 9817 of the American Rescue Plan Act of 2021 (ARPA) and response to CMS' requests for additional information.

As outlined in the Initial Spending Plan, use of enhanced federal funding will reinforce the Commonwealth's commitment to improve equity and access to HCBS for those with physical disabilities, intellectual and developmental disabilities, behavioral health needs, and older adults. To achieve these goals, the Commonwealth of Massachusetts will implement investments supporting three key structural pillars:

1. **HCBS Workforce,** *retaining and building a high-quality provider network.*
2. **Access to and Promotion of HCBS Services and Supports**, *including navigation, transitions, family and natural supports, diversion from institutional settings and enhanced care models*; and
3. **HCBS Technology and Infrastructure,** *to augment the HCBS workforce and enable more effective care coordination, efficient communication, as well as service access and delivery.*

Massachusetts has proposed investments in three rounds that support each of the three structural pillars. Investments total approximately $966M gross ($526M net) across Rounds 1, 2 and 3 and will be used to improve member equity and access to HCBS. Of the $966M total gross, $526M will be funded using the enhanced federal ARPA HCBS dollars, and the remainder will be funded through traditional Medicaid dollars.

Through the investments proposed to date, Massachusetts assures CMS that:

- The state is using the federal funds attributable to the increased FMAP to supplement and not supplant existing state funds expended for Medicaid HCBS in effect as of April 1, 2021;
- The state is using state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement the implementation of one or more activities to enhance, expand, or strengthen HCBS under the Medicaid program;
- The state is not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021;
- The state is preserving covered HCBS, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021; and
- The state is maintaining HCBS provider payments at a rate no less than those in place as of April 1, 2021.

The Massachusetts Executive Office of Health and Human Services (EOHHS) will also serve as the Operating Agency for ARPA investments through the MassHealth program, the state's Medicaid program. Amy Bianco, Director of Health Policy and Strategic Initiatives has been designated as the primary contact person for Massachusetts; she will work closely with many others across state government, as well as with community partners across the HCBS continuum, to implement the initiatives and investments. Please do not hesitate to contact her at amy.bianco@mass.gov.

Sincerely,

Amanda Cassel Kraft
Assistant Secretary and Medicaid Director

Cc: Marylou Sudders, Secretary of the Executive Office of Health and Human Services
Mike Levine, Deputy Medicaid Director
Susan Ciccariello, Acting Director of the MassHealth Office of Long-Term Services and Supports

Background

Massachusetts' initial spending plan outlined a framework for investment that enhances, strengthens, and expands HCBS across MassHealth populations both in the short term and in the long term. Use of enhanced federal funding through Section 9817 of the American Rescue Plan Act (ARPA) will reinforce Massachusetts' commitment to improve access, family and natural supports, person-centeredness, choice, and equity to HCBS for those with physical disabilities, intellectual and developmental disabilities, and behavioral health needs and for older adults.

To achieve these goals, the Commonwealth of Massachusetts has used a staged approach to finalize the scope of HCBS investments over three implementation "rounds" using an anticipated $526 million (M) in enhanced ARPA funding across the three rounds. Investments across all three rounds total $966M (gross) toward HCBS. Of the $966M total (gross) investments across Rounds 1, 2 and 3, $526M will be funded using the enhanced ARPA HCBS dollars, and the remainder will be funded through traditional Medicaid dollars.

The initial spending plan described the Round 1 plan to invest $338M (gross) and $133M (net) to fund immediate, time-limited, across-the-board enhanced provider payments over July – December 2021 to strengthen and stabilize the HCBS workforce especially in response to the COVID-19 pandemic. Given continued and urgent need, Massachusetts extended these enhancements within the Round 3 spending plan through June 30th, 2022. Round 2 proposed to invest a total of $44M (gross) and $21 (net) to complement Massachusetts' long-standing commitment to equitably rebalance long-term services and supports (LTSS) and behavioral health services towards community living by diverting and/or transitioning individuals away from facility-based settings. Round 3 proposed to invest a total of $584M (gross) $372M (net) in investments with long term, structural impact, with a focus on strengthening the workforce, enhancing the HCBS system, rebalancing towards community living and providing supports to members, their families, and their caregivers.

All three rounds of investments tie to the three structural pillars:

- **HCBS Workforce** development and expansion, including programs to train, retain and professionally advance the paid workforce, and support the unpaid family and natural caregiver workforce;

- **Access to and Promotion of HCBS** that further rebalance toward community-based services with a focus on HCBS navigation, transitions to HCBS and diversion from facility-based settings, and services that enhance HCBS capacity and care models (e.g., support and streamline transitions between settings, PASRR enhancements, embedded options counselors in inpatient and facility-based settings, enhanced communication tools for families, consumers, and caregivers, etc.);

- **Technology and infrastructure investments** that augment the workforce and strengthen HCBS (e.g., data sharing, caregiver directories, and electronic and interoperable platforms, etc.).

Executive Summary

This updated February quarterly report serves as a progress report on Massachusetts' activities since the initial spending plan and July and October Quarterly spending plans were submitted.

On February 7th, 2022, CMS provided partial approval of the July and October Quarterly Spending Plans (Rounds 2 and 3) and requested certain additional information necessary for it to approve the remainder of the July and October Quarterly Spending Plans. The state's response to CMS' request for additional information is included in this updated February Quarterly report.

Recognizing the time limited availability of these funds and urgent member and provider need, for the initiatives included in these Rounds, Massachusetts had moved forward with the development of the necessary foundational components for these activities in anticipation of their approval. **Future quarterly reports will include greater detail on implementation and expenditures made to date.**

Activity Updates and Implementation Progress

Activity Update: Payment enhancements for Recruitment and Retention

As noted, on July 23, 2021 CMS provided approval of the immediate time-limited across-the-board payment enhancements for the HCBS workforce included in Round 1. To implement these rate enhancements EOHHS promulgated the following rate regulation and has begun paying the enhanced rates to providers: 101 CMR 447.00: Rates for Certain Home- and Community-based Services Related to Section 9817 of the American Rescue Plan Act.

In addition, EOHHS issued guidance to providers communicating compliance criteria for distribution of the immediate funding. This guidance includes a list of HCBS direct care and support staff eligible to receive funds and allowable uses for distribution. Eligible workers include but are not limited to front line workers who provide care or support to families and individuals in home or community-based settings. Executive management, administrators or individuals in positions that do not include the provision of HCBS services directly to individuals or their families are not considered HCBS direct care and support staff. Providers may utilize the enhanced funding for the specific purposes of recruiting, building, and retaining their direct care and support workforce. Allowable uses include hiring bonuses, overtime, shift differentials, and other wraparound benefits.

Sustainability:

Rebuilding, strengthening, and supporting the HCBS workforce, both paid and unpaid, is critical for enhancing, expanding and strengthening HCBS in both the immediate and longer term. To that end, in its October Quarterly Spending Plan, Massachusetts outlined a strategy to build and retain, grow, innovate, and support the direct care workforce moving forward, and which included the time-limited rate enhancements targeted to workforce development noted above.

These time-limited rate enhancements are intended to address workforce challenges during the COVID-19 Public Health Emergency (PHE). Massachusetts does not intend to extend these short-term rate enhancements beyond the current COVID-19 PHE. However, the Massachusetts Executive Office of Health and Human Services reviews the rates for home and community-based services on a biennial basis and updates these rates accordingly to ensure that they remain adequate.

Additional workforce investments beyond the provider rate enhancements, will play a critical role in sustainability moving forward. These include, but are not limited to, the provision of competitive innovation grants for recruitment and retention, and strategies to both sustain family caregivers and natural supports while also stabilizing and expanding the HCBS workforce. Upon evaluation of these proposals, Massachusetts will assess the impact and outcomes of each proposal and will explore the benefits of continuing these efforts beyond the initial period.
Massachusetts filed a Disaster-SPA (ID: MA-21-0034) and an Appendix K amendment for the above time-limited rate increases that were proposed in our initial spending plan for the July-December 2021 period. We will be filing an additional Disaster SPA and Appendix K amendment for the continuation of these time-limited rate increases as proposed in our October spending plan for the period of January – July of 2022.

Overview of Implementation Progress:

Currently, Massachusetts is heavily engaged in foundational policy development and implementation strategy for the proposed investments, to ensure the successful outcomes and positive long-term impacts for individuals served by HCBS across the state. This includes additional stakeholder engagement, developing implementation plans for proposed activities and drafting spending authorities. The details of this progress by activity are in Appendix A of this document.

In addition, Massachusetts began claiming the additional 10% FFP per Section 9817 on some HCBS Base Waiver spending on the September 2021 CMS 64. This resulted in the state collecting approximately $96M in additional FFP. Massachusetts will claim additional base spending on the December 2021 CMS 64. These additional dollars will be used to fund the many projects identified in our spending plan.

Modifications to Spending Plan Proposals

Massachusetts is requesting approval for proposed modifications to the initiative entitled "Enabling Member Technology", in comparison to what was submitted in the October Quarterly Spending Plan.

This update to the February Quarterly Report represents a change and modification from what was originally submitted in the October Quarterly Spending Plan where EOHHS proposed to establish a centralized technology support structure to ensure members could effectively use and troubleshoot their technology.

Due to feasibility and sustainability considerations, EOHHS proposes to address technology support for consumers through each agency's existing structure as an alternative to procuring a centralized technology support solution. **The below updated proposes to utilize the funding previously allocated for the October Quarterly Spending Plan to redistributed to support the initiatives listed in this update, including a new proposal to provide funding for time limited internet connectivity.**

Enabling Member Technology – <u>UPDATED</u>
Pillar: Access and Promotion of HCBS Services
Goal(s): Empower members through technology
Agencies Impacted: DDS, DMH, EOEA, MassHealth, MRC
Estimated Investment: $33,500,000 (net)
Estimated Implementation Start Date: Q2 of 2022

Enabling member technology is the use of various forms of devices and technology to support a person with disabilities, behavioral health needs, and/or individuals living independently in need of additional support. Enhanced federal funding for this initiative will support three primary initiatives: 1) support for existing programs that provide direct-to consumer enabling technology, including Assistive Technology, Smart Technology, and Communication Devices identified based on individually assessed needs 2) establishment of a learning collaborative which will serve as an online resource data base and direct-to-consumer enabling technology training hub for state providers and staff 3) time limited internet connectivity to promote HCBS and bridge the gap for consumers until federal subsidized initiatives take full effect. Details are as follows:

1) **Support for existing programs that provide direct-to consumer enabling technology, including Assistive Technology, Smart Technology, and Communication Devices identified based on individually assessed needs.**

2) **Establishment of a learning collaborative which will serve as an online resource data base and direct-to-consumer enabling technology training hub for state providers and staff**

   EOHHS proposes to establish an online learning collaborative that would (1) create a publicly available direct-to-consumer Enabling Technology resource database, (2) create a central listing of existing assistive technology consortiums across the state to present their resources to a wider audience, and (3) establish a central training hub and credentialed training for contracted state providers and state staff. The online learning collaborative also supplements the agency-specific Enabling Technology initiatives by increasing overall capacity and knowledge about Enabling Technologies.

3) **Time limited internet connectivity to promote HCBS and bridge the gap for consumers until federal subsidized initiatives take full effect.**

   This proposal is new from what was submitted to CMS in the October Quarterly Spending Plan, EOHHS proposes to pay for short-term internet connectivity to promote HCBS and bridge the gap for consumers until federal subsidized initiatives take full effect.

   EOHHS plans to engage a supplier to provide internet for the duration of the ARPA period to each agency's focus consumer groups. Internet would primarily be provided as part of a "bundle" with devices and training, after an evaluation is done by state agency or contracted vendor staff. Once the evaluation is complete, staff would make a referral to the centralized internet supplier. This initiative supplements the agency-specific

Enabling Technology initiatives, as bundling a device that will increase access to HCBS (e.g., telehealth) with internet will increase the likelihood of use.

At the conclusion of the ARPA period, EOHHS intends to build a robust transition strategy to seamlessly off-board consumers to federally subsidized broadband internet to ensure continuity of internet connectivity.

Massachusetts' Response to CMS' Request for Additional Information

On, February 7th, 2022, Massachusetts received a letter from CMS granting Partial Approval for Massachusetts' federal fiscal year 2022 quarter 2 spending plan and narrative. The letter stated that full approval of the spending plan and narrative was conditioned upon providing additional information as described below and upon the state's continued compliance with program requirements as stated in SMDL #21-003. **With this additional information, Massachusetts requests CMS approval as to whether these activities or uses of funds are approvable under ARP section 9817.**

In response, please see below for additional information as requested by CMS.

1. **Clearly indicate whether the following activities 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) or focused on services that are listed in Appendix B or that could be listed in Appendix B:**

    a. **Extended Payment Enhancements for Emergency Recruitment and Retention;**

    This initiative is targeted at providers as referenced in 101 CMR 447.00: Rates for Certain Home- and Community-based Services Related to Section 9817 of the American Rescue Plan Act delivering. These providers deliver services such as home health, personal care, case management and other services that are listed in Appendix B.

    b. **HCBS "Call to Care" Recruitment Campaign**;

    This initiative is targeted at providers delivering services such as home health, personal care, case management, and other services that are listed in Appendix B.

    c. **Workforce Innovation & Technical Assistance Grant Program;**

    This initiative is targeted at providers delivering services such as home health, personal care, case management, and other services that are listed in Appendix B.

    d. **Provider Technology Improvement Grant;**

    This initiative is targeted at providers delivering services such as home health, personal care, case management, and other services that are listed in Appendix B.

    e. **Electronic Portable Order for Life-Sustaining Treatment (ePOLST): Program Startup;**

    The Electronic Portable Order for Life-Sustaining Treatment (ePOLST) initiative will establish an electronic registry for POLST forms. One goal of this initiative is to strengthen, enhance and expand access to and utilization of MassHealth HCBS services (those listed in Appendix B) through increased access to an individual's treatment preferences.

    Through ePOLST Massachusetts seeks to promote the reduction of unwanted and unnecessary acute and institutionalized care and promote the ability for individuals to live their last year of life in the setting of their choice, which is often in their own home or community. Through ePOLST MassHealth HCBS providers will have increased information and access to an individual's wishes to stay in the community, thus promoting and strengthening access and utilization of MassHealth HCBS services.

f. Transitional Residential Services for Persons with ASD and Behavioral Health Diagnoses.

This initiative is targeted at providers delivering services in Appendix B, specifically services under the HCBS 1915i waiver, Section 1115 waiver and services such as targeted case management and rehabilitation services.

g. Expanding In-home Services for Individuals with ASD and Behavioral Health Diagnoses

This initiative is targeted at providers delivering services in Appendix B, specifically services under the HCBS 1915i waiver, Section 1115 waiver and services such as targeted case management and rehabilitation services.

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h. DMH Web-Based Service Application and Client Profile;

This initiative is targeted at providers delivering targeted case management and rehabilitative services which are services that are listed in Appendix B.

i. Behavioral Health Clinical Fellowships & Training Program Expansion.

This initiative is targeted at providers delivering Children's Behavioral Health Initiative Services, which are Rehabilitative Services and Targeted Case Management, services that are listed in Appendix B.

2. Provide additional information on the services that would be paid for with ARP section 9817 funding under the "Expansion of MFP Community Living Waiver Slots" and "Autism Waiver Expansion" activity and clarify whether the state intends to use ARP section 9817 funding to pay for any services other than those listed in Appendix B or that could be listed in Appendix B for individuals who are Medicaid-eligible prior to HCBS waiver enrollment, or any institutional services for individuals who become newly eligible as a result of the increase in waiver slots.

Massachusetts will only be using ARP section 9817 funding to pay for 1915(c) waiver services, which are listed in Appendix B. No funding attributable to the increased FMAP will be used to pay for institutional services.

3. Clearly indicate that the "Continuous Skilled Nursing (CSN) Provider Directory" and the "Continuous Skilled Nursing (CSN) and Independent Nurse Training Program" activities will be focused on providers delivering services in home and community-based settings.

The "Continuous Skilled Nursing (CSN) Provider Directory" and the "Continuous Skilled Nursing (CSN) and Independent Nurse Training Program" activities are focused on providers of Continuous Skilled Nursing Services, which are private duty nursing services provided in a community setting. Specifically, the MassHealth CSN program regulations established under 130 CMR 403 and 130 CMR 438 specify that CSN services can only delivered in a non-institutional setting.

4. Clearly indicate whether your state plans to pay for ongoing internet connectivity costs as part of any of these activities:

a. Provider Technology Improvement Grant;

There are no internet connectivity costs associated with this activity; one-time grants will be issued to providers delivering services listed in Appendix B to invest in technology.

b. Electronic Portable Order for Life-Sustaining Treatment (ePOLST):

There are no internet connectivity costs associated with this activity.

c. Enabling Member Technology;

Please refer to the *"Modifications to Spending Proposals"* section for details on how this activity supports ongoing internet connectivity costs.

d. Consumer Video Messaging Software and Video Hardware; and

There are no internet connectivity costs associated with this activity.

e. Tablets for ASD Population.

There are no internet connectivity costs associated with this activity. The tablets will be used for speech generation/communication which is provided through software.

5. 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.

As noted above, the only activity for which ongoing internet connectivity costs will be incurred is the Enabling Member Technology initiative. Please refer to the *"Modifications to Spending Proposals"* section for detail as to how these costs will enhance, expand, and strengthen HCBS. Massachusetts will not claim FFP on this activity.

6. Clearly indicate whether your state plans to pay for capital investments under the "Improving Mobility Access" activity. Capital investments are permissible uses of funds to expand, enhance, or strengthen HCBS under section 9817 of the ARP. However, states must demonstrate how capital investments would expand, enhance, 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.

Massachusetts does not plan to pay for capital investments under the "Improving Mobility Access" activity.

7. Confirm that the state will not pay for room and board (which CMS would not find to be a permissible use of funds) as part of any of the following activities: "Specialized Transition Support for Adults with Behavioral Health Needs"; "Cover One-Time Transitional Housing Costs for Housing Unstable Members Transitioning back into the Community"; and "Transitional Residential Services for Persons with ASD and Behavioral Health Diagnoses."

a. "Specialized Transition Supports for Adults with Behavioral Health Needs"

Massachusetts does not plan to pay for room and board under the "Specialized Transition Support for Adults with Behavioral Health Needs" activity.

b. "Cover One-Time Transitional Housing Costs for Housing Unstable Members Transitioning Back to the Community"

Massachusetts does not plan to pay for room and board under the "Cover One-Time Transitional Housing Costs for Housing Unstable Members Transitioning back into the Community" activity. In accordance with State Medicaid Director May 13, 2021: implementation of ARPA, Massachusetts is planning to pay for one-time transition costs to facilitate individuals transitioning from an institutional or provider operated congregate living arrangement to a community-based living arrangement in a private residence where the person is directly responsible for his or her own living expenses. These one-time transition costs will not be recurring nor ongoing and are based on transition costs that are currently allowable by CMS under 1915(k) Community First Choice State Plan Optional Benefit. Specifically, according to CMS guidance, permissible one-time transition costs include "security deposits for an apartment or utilities, purchasing bedding and basic kitchen supplies, first month's rent, and other one-time expenses required for the transition from an institution to community housing." See CMS June 26, 2015

information bulletin "Coverage of Housing-Related Activities and Services for Individuals with Disabilities" at page 6 and available at www.medicaid.gov/federal-policy-guidance/downloads/cib-06-26-2015.pdf.

In accordance with the CMS guidance contained in the above referenced information bulletin, Massachusetts plans to cover the following one-time transition costs as part of this activity: move-in assistance (e.g., moving costs, security deposits, costs related to starting utilities, first month's rent), basic furnishings and supplies needed to set up a bathroom and bedroom (e.g., bedding, towels, toiletries), basic kitchen supplies (e.g., dishware, silverware, cooking supplies, appliances not supplied by the property owner), any needed environmental modifications to install necessary accommodations not covered by insurance, pest eradication or one-time cleaning, and other one-time expenses required for the transition from an institution to community housing. Finally, Massachusetts will not be seeking FFP for the funding spent for this activity.

c. **"Transitional Residential Services for Persons with ASD and Behavioral Health Diagnoses."**

Massachusetts does not plan to pay for room and board for this initiative. Funds will be used to cover occupancy costs paid to the provider for the provision of the physical site. Occupancy costs includes items such as, depreciation, durable equipment, insurance on buildings and equipment, real estate taxes, maintenance, electricity, heat, and water. Additionally, costs associated with the delivery of service and supports by paid staff in the residential setting designed to assist individuals to acquire, maintain or improve the skills necessary to live in a non-institutional setting. This includes daily staff intervention with care, supervision, and skills training in activities of daily living, home management and community integration. This service will include intensive staffing supports to meet the ASD support needs of the participants.

8. **Massachusetts has assured CMS that the state is not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021. Please confirm that the state is not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021 through any of the following activities: "Enhance Pre-admission Screening and Resident Review (PASRR) to Ensure Least Restrictive Setting"; "DMH Web-based Service Application and Client Profile"; "DDS Electronic Intake/Eligibility System"; "OneMRC – Consumer and Provider/Vendor Portal"; and "Upgrade MassHealth Notification of PACE Clinical Eligibility."**

Massachusetts assures CMS that the state will not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021 through any of proposed activities including those specifically noted by CMS above.