

**Meeting of the Board of Medical Assistance Services  
600 East Broad Street, Suite 1300  
Richmond, Virginia**

**June 17, 2014**

**Minutes**

**Present:**

Mirza Baig  
Joseph W. Boatwright, III, M.D.  
Vice Chair  
Michelle Collins-Robinson  
Brian Ewald  
Maureen Hollowell  
Maria Jankowski  
McKinley L. Price, D.D.S.  
Karen S. Rheuban, M.D.  
Chair  
Erica L. Wynn, M.D.

**Absent:**

Peter R. Kongstvedt, M.D.  
Marcia Wright Yeskoo

**DMAS Staff:**

Elizabeth Guggenheim, Legal Counsel  
Craig Markva, Manager, Office of Communications,  
Legislation & Administration  
Nancy Malczewski, Public Information Officer, Office of  
Communications, Legislation & Administration  
Mamie White, Public Relations Specialist, Office of  
Communications, Legislation & Administration

**Speakers:**

Cynthia B. Jones, Director  
Linda Nablo, Chief Deputy Director  
Karen E. Kimsey, Deputy Director for Complex Care and  
Services  
Scott Crawford, Deputy Director for Finance  
Cheryl J. Roberts, Deputy Director for Operations

**Guests:**

Tyler Cox, First Choice Consulting  
W. Scott Johnson, First Choice Consulting  
Rick Meidlidger, Johnson & Johnson  
Tucker Obenshain, McGuire Woods Consulting  
Susan M. Matthews, Med Immune  
Jeffrey Green, VCU  
Abrar Amamuddin, OAG

**Call to Order**

The meeting was called to order at 10:05 a.m. by Dr. Rheuban. Dr. Rheuban asked members to introduce themselves. Then, introductions continued around the room.

Legal Counsel, Elizabeth Guggenheim, suggested providing a Freedom of Information Act (FOIA) presentation at the next meeting of the Board and asked members to review the materials provided in their books. (handouts attached)

### **Approval of Minutes from April 8, 2014 Meeting**

Dr. Rheuban asked that the Board review and approve the Minutes from the April 8, 2014 meeting. Ms. Collins-Robinson made a motion to accept the minutes and Dr. Wynn seconded. The vote was unanimous. **9-yes (Baig, Boatwright, Collins-Robinson, Ewald, Hollowell, Jankowski, Price, Rheuban, and Wynn); 0-no.**

### **DIRECTOR'S REPORT**

Ms. Jones provided an overview of recent events as reported in the local newspaper related to Medicaid and noted the current budget does not allow for the expenditure of general or non-general funds for the expansion of Medicaid unless the full legislature approves.

### **UPDATE ON MEDICAID IN THE STATE BUDGET**

Mr. Scott Crawford, Deputy Director for Finance, gave an update on Medicaid in the State Budget since the last meeting. Specifically, the Special Session budget passed with an amendment that stated "...notwithstanding any other provision of this act, or any other law, no general or non general funds shall be appropriated or expended for such costs as may be incurred to implement coverage for newly eligible individuals pursuant to 42 U.S.C. §1396d(y)(1)(2010 of the Patient Protection and Affordable Care Act, unless included in an appropriation bill adopted by the General Assembly on or after July 1, 2014." This budget was sent to the Governor for consideration and action. (handouts attached)

### **MEDICAID 101**

Ms. Jones provided an overall overview of the many vital roles Virginia Medicaid plays in the health care system (see attached handout). Ms. Jones noted the BMAS Biennial report which provides an overview of the Board and the Department of Medical Assistance Services and its activities during the past two years will be sent to members for review. The BMAS Biennial report is due at to the Governor and General Assembly at the end of the year.

The Chief Deputy and Deputy Directors shared brief background of their responsibilities and highlights of the divisional accomplishments under their specific programs. Ms. Jones concluded with remarks on closing the coverage gap in Virginia.

### **Regulatory Activity Summary**

The Regulatory Activity Summary is included in the Members' books to review at their convenience.

**OLD BUSINESS**

None.

**Adjournment**

Dr. Rheuban asked that Board members be notified of upcoming meetings of the various DMAS committees. Dr. Rheuban asked for a motion to adjourn the meeting. Ms. Janowski made a motion to adjourn the meeting and Mr. Ewald seconded. The vote was unanimous. **9-yes (Baig, Boatwright, Collins-Robinson, Ewald, Hollowell, Jankowski, Price, Rheuban, and Wynn); 0-no.** Dr. Rheuban adjourned the meeting at 12:13 p.m.



# EMAIL & MEETINGS under the VIRGINIA FREEDOM OF INFORMATION ACT

---

---

## I. Introduction

As technology advances, new and efficient ways to communicate have evolved. Perhaps the most prevalent advancement in carrying out day-to-day communications at work or at home is electronic mail ("email"). Email can be used to send correspondence on a one-to-one or one-to-many basis over the computer. Each user has an email address, and messages received at that address are stored in electronic mailboxes until the recipient retrieves the message. After reading the message, the user may save it on his computer, print it, forward it to other email addresses, respond to the sender, respond to the sender and other recipients of the same email, or delete it.

The use of email can blur the line between correspondence and a meeting under FOIA. Email is similar to traditional paper correspondence in many ways and is a written form of communication that is by definition a record under FOIA. However, from a practical perspective, email is often used as a substitute for a phone call and can be used to communicate quickly with multiple people at once, making it more akin to a meeting. While FOIA addresses electronic meetings held by audio or audio/visual means, it does not explicitly address the use of email in a meetings context.<sup>1</sup> In 2004, the Virginia Supreme Court, however, examined whether the exchange of emails among members of a city council could constitute a meeting under FOIA. A review of the Supreme Court's decision follows under the heading "II. The Impact of the Virginia Supreme Court Decision in *Beck v. Shelton*." The Court revisited the issue in 2012, examining whether an exchange of emails among School Board members constituted a meeting under FOIA. A review of that decision appears under the heading "III. The Impact of the Virginia Supreme Court Decision in *Hill v. Fairfax County School Board*."

The use of email by public officials is clearly allowed by FOIA. One member of a public body may individually email other members, even if the email relates to public business.<sup>2</sup> Questions arise based on the manner in which a recipient responds to an email

---

<sup>1</sup> See § 2.2-3708, which expressly allows state public bodies to hold audio or audio/visual meetings. See also Chapter 704 of the 1997 Acts of Assembly, establishing a pilot program for certain state public bodies to hold audio/visual meetings.

<sup>2</sup> See § 2.2-3710(B). See also 2011 Op. Atty. Gen. Va. 11-096 (August 5, 2011) (Two members of a three-member electoral board may communicate by email without violating FOIA because email lacks the element of simultaneity required for the communication to be considered a meeting under FOIA.); 1999 Op. Atty. Gen. Va. 12 (The meeting provisions of FOIA do not prohibit members of a public body from sending email to other members of the same public body. The decision rests on the fact that the use of email does not result in simultaneous communication like a traditional meeting.); Virginia Freedom of



addressed to three or more members of a public body. When responding to an email, it is possible to "reply to sender" or to "reply to all." If a recipient chooses "reply to all," then three or more members of a public body will see not only the initial email, but also another member's response. Other members could then, in turn, respond to the email or the ensuing responses. In the end, three or more members of a public body could have used the chain of email to discuss, and possibly reach a conclusion about, a matter relating to the transaction of public business.<sup>3</sup>

A meeting, as defined in FOIA, refers to a simultaneous discussion, but the use of email is not necessarily simultaneous among users. If a user only checks his email once a day, 24 hours could pass between an initial email and a response. However, it is also possible for users to be logged into their email system at the same time, and the lag time between emails might only be the time that it takes to compose a response and hit send.

## II. The Impact of the Virginia Supreme Court Decision in *Beck v. Shelton*<sup>4</sup>

On March 5, 2004, the Virginia Supreme Court ("the Court") issued an opinion concerning the Virginia Freedom of Information Act ("FOIA," § 2.2-3700 et seq. of the Code of Virginia) (*Beck v. Shelton*, 267 Va. 482, 593 S.E.2d 195), with a holding directly relevant to all elected officials in Virginia, from members of the General Assembly to members of local school boards. *Beck* has drawn interest primarily because it is the first authoritative statement of law in Virginia as to whether use of email by public officials could constitute a meeting under FOIA, but it also examines broader issues as to the applicability of FOIA to public officials and the definition of a meeting. The Court held that FOIA does not apply to members-elect of a public body; that generally, use of email by three or more members of a public body to discuss public business is not a meeting; and that a gathering of three members of a public body at a citizen-organized meeting did not violate FOIA. For the purposes of this document, only those portions of the Court's holding related to email and meetings under FOIA will be discussed.<sup>5</sup>

### Facts

Three plaintiffs filed a petition for writ of mandamus and injunction in Fredericksburg Circuit Court against five members of the Fredericksburg City Council. The petition alleged that the defendants used email to discuss and decide public business and that such use of email constituted an improper meeting under FOIA.

---

Information Advisory Opinion 19 (2004) (two members of a three-member electoral board may communicate using email without violating FOIA so long as it is not simultaneous communication that would constitute a meeting for FOIA purposes).

<sup>3</sup> For a similar discussion, see Virginia Freedom of Information Advisory Opinion 01 (2001) (finding that the use of a listserv by members of a public body constitutes a meeting if used to discuss or transact public business. A listserv is different from regular email in that users must join a listserv and all messages posted to the listserv are automatically sent to each member of the listserv.)

<sup>4</sup> Excerpted from the Division of Legislative Services' *Virginia Legislative Issue Brief*, No. 37, March 2004, written by Lisa Wallmeyer and Maria J.K. Everett.

<sup>5</sup> For a complete analysis of the *Beck v. Shelton* case, please refer to the FOIA Council's website: <http://foiacouncil.dls.virginia.gov>.



## Holding

The Court considered the question of whether use of email could be a meeting under FOIA. The Court overturned the trial court's decision that use of email to reach a consensus on a matter of public business was a meeting, on the grounds that the emails in question were similar to letters sent via U.S. mail or facsimile.

The Court examined the definition of a meeting at § 2.2-3701, which includes *an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership*. The Court noted that email can be similar to traditional forms of written correspondence, in that there may be significant delay between the time the communication is sent and received, or when a response is sent. In the instant case, the shortest interval between any two emails was more than four hours, and the longest was over two days. The Court agreed with the trial court that the dispositive consideration in examining email is how the email is used. In reviewing this standard, the Court focused on the language in the definition of a meeting that includes "an informal assemblage." "Assemblage," the Court concluded, means to bring together at the same time and inherently entails simultaneity. The Court held that there is no "virtually simultaneous interaction" when email is used as the functional equivalent of a letter communicated by U.S. mail, courier, or facsimile transmission<sup>6</sup>. In further support of this conclusion, the Court noted that the Attorney General of Virginia had previously found that "transmitting messages through an electronic mail system is essentially a form of written communication."<sup>7</sup> While not binding, the General Assembly "is presumed to have knowledge of the Attorney General's interpretation of statutes, and its failure to make corrective amendments evinces legislative acquiescence in the Attorney General's view."<sup>8</sup>

It is important to note that the Court did not hold that use of email could never be a meeting under FOIA. Instead, the Court indicated that the dispositive determination in examining email under the meeting provisions of FOIA was to look at how the email was used. The trial court answered this question by reviewing the end result - i.e., that email was used to reach a consensus. According to the Supreme Court, this question is more appropriately answered by reviewing whether the email was used as a functional equivalent of traditional correspondence.

This opinion clarifies that members of a public body need not refrain from using email, but they should be cautioned against using email among three or more members of the public body that is akin to using the telephone or the functional equivalent of an in-person gathering and has an element of simultaneity. The court did not establish a time frame as to when the use of email may be considered simultaneous, nor did it address the use of chat rooms, instant messaging, or listservs.

This decision does not alter the fact that the records generated by email fall under FOIA's definition of a public record. Emails concerning public business are available for

---

<sup>6</sup> *Id.* at 7.

<sup>7</sup> *Id.* at 11 (citing 1999 Op. Atty. Gen. 12).

<sup>8</sup> *Id.* at 12 (citing *Browning-Ferris, Inc. v. Commonwealth*, 225 Va. 157, 161-62, 300 S.E. 2d 603, 605-06 (1983)).



inspection or copying upon request, unless a specific statutory exemption allows a particular email or contents thereof to be withheld. Furthermore, emails must be retained like other public records subject to the provisions of the Virginia Public Records Act (§ 42.1-76 et seq).

### Conclusion

The Court's holding has implications for members of all public bodies in the Commonwealth. With email, the user must consider whether the email is being used akin to traditional correspondence, or whether the email has an element of simultaneity and is more like a telephone call between three or more members of the public body. This decision of the Court was fact-specific. Although no bright-line rules emerged in establishing what is or is not a meeting, the ruling underscores the notion that all meetings are presumed open under FOIA. Determining whether a particular email discussion falls outside the parameters of a meeting must be considered carefully, on a case-by-case basis, examining all relevant facts.

### **III. The Impact of the Virginia Supreme Court Decision in *Hill v. Fairfax County School Board***

On June 7, 2012, the Virginia Supreme Court ("the Court") issued an opinion concerning the Virginia Freedom of Information Act ("FOIA," § 2.2-3700 et seq. of the Code of Virginia) (*Hill v. Fairfax County School Board*, 284 Va. 306, 727 S.E.2d 75). This case revisited the issue of whether the use of email could constitute a public meeting subject to FOIA. The Court held that the email in this case did not constitute a meeting under FOIA. The plaintiff had also alleged violation of FOIA in regard to a request for public records, but only the Court's holding regarding email as a meeting will be addressed here.

### Facts

The plaintiff alleged that the school board had conducted a closed meeting about the closure of a local school in violation of FOIA through the use of email. The circuit court received copies of various emails into evidence and heard testimony that revealed that the school board members had communicated with each other by email, by telephone, and in person to consider the school closing. The circuit court expressly found that the time intervals between the exchange of emails were much shorter than was the case in *Beck*, but emails were exchanged between only two members at a time. The circuit court held that the exchange of email in question did not constitute a meeting because simultaneous communication between three or more school board members did not occur.

### Holding

The Court affirmed the decision of the circuit court that the email exchange in question did not constitute a meeting under FOIA because it did not involve simultaneous communication between three or more school board members. The Court emphasized that it was applying the same analysis in *Beck* and that the circuit court's decision below was entirely consistent with *Beck*.



## Conclusion

The Court's holding has implications for members of all public bodies in the Commonwealth, as it reaffirms the holding and analysis of *Beck* as applied to a different fact pattern. In *Beck*, the email exchange at issue involved a sufficient number of members to constitute a meeting, but it lacked the necessary element of simultaneity. In *Hill*, the emails were exchanged much more closely in time, but lacked the necessary number of members involved to be considered a meeting subject to FOIA. Together these cases make clear that in order to constitute a meeting under FOIA, an exchange of emails would have to involve a sufficient number of members ("three or more, or a quorum if less than three") and would have to occur within a time period short enough to be considered a simultaneous assemblage of the public body.

## **IV. Tips for Using Email**

Keep in mind the following tips:

- Remember the underlying principle of the open meeting provisions of FOIA: the public has the right to witness the operations of government. If you question whether your email communication might lead to the deliberation of public business by three or more members of a public body in real time (i.e., has an element of simultaneity), then you may be better served by saving that communication for a public meeting.
- If you receive an email sent to three or more recipients who are members of the same public body, and you wish to respond, choose "respond to sender" instead of "respond to all." One-on-one communications are clearly allowed under FOIA, and this will avoid an email discussion among three or more members.
- When composing an email to send to three or more members of a public body, enter the recipients' addresses in the "blind carbon copy" (bcc) field instead of in the "to" field. By doing this, an individual recipient will not be able to automatically respond to anyone but you.
- Use staff to send emails on behalf of members to ensure the exchange of emails will not be a simultaneous communication among three or more members which could constitute a meeting.

Updated August 2013







# ACCESS TO PUBLIC MEETINGS under the VIRGINIA FREEDOM OF INFORMATION ACT

---

---

## I. STATUTORY GUIDANCE

The Virginia Freedom of Information Act (FOIA) is largely a procedural act, and the provisions relating to meetings set forth the procedures that a public body must follow in conducting an open meeting and convening in a closed meeting. This outline breaks down the procedural requirements, such as what is required in posting a notice and certifying a closed meeting, and provides practical advice for conducting meetings that comply with FOIA. Appendix A sets forth in detail the requirements for making a motion to convene a closed meeting. Appendix B describes commonly used meeting exemptions of general applicability.

## II. OPEN MEETINGS GENERALLY

### *WHAT IS A MEETING UNDER FOIA?*

A “meeting” is defined as “meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708, as a body or entity, or as an informal assemblage of (i) **as many as three members** or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body” **where the business of the public body is being discussed or transacted.** (Emphasis added.)<sup>1</sup>

### *WHAT IS NOT A MEETING UNDER FOIA?*

1. The gathering of employees of a public body;
2. The gathering or attendance of two or more members of a public body at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, the gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, **and** the public business is not discussed; or
3. The gathering or attendance of two or more members of a public body at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting.<sup>2</sup>

---

<sup>1</sup> Statutory reference: § 2.2-3701. FOIA Council Opinions AO-4-00, AO-20-01, AO-40-01, AO-46-01, AO-02-02, AO-06-02, AO-13-03, AO-15-04, AO-20-04, AO-11-05, AO-02-06, AO-10-07, AO-12-08, AO-03-09, AO-05-11.

<sup>2</sup> Statutory references: §§ 2.2-3701, 2.2-3707(G). FOIA Council Opinions AO-4-00, AO-10-00, AO-46-01, AO-02-02, AO-13-03, AO-12-04, AO-12-08, AO-05-11.



## ***MAY A PUBLIC BODY CONDUCT A MEETING BY CONFERENCE CALL OR OTHER ELECTRONIC METHOD?***

Maybe. Prior to July 1, 2007, no **local** governing body or any other type of local public body was permitted to conduct a meeting through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business. However, **state** public bodies may conduct such meetings under specified circumstances. Since July 1, 2007, local and regional public bodies may also allow participation by their members via teleconference or other electronic means under certain limited circumstances.<sup>3</sup>

## ***IF IT IS A MEETING, WHAT DOES FOIA REQUIRE?***

If it is a meeting under FOIA, the law requires that:

1. Notice of the meeting be given;
2. The meeting must be open to the public; **and**
3. Minutes of the meeting must be taken and preserved.<sup>4</sup>

## ***WHAT IS SUFFICIENT NOTICE?***

Notice must contain the **date, time, and location** of the meeting. It is also helpful (but not required) to include the agenda for the meeting to inform the public generally of what topics will be discussed at the meeting. If a state public body includes at least one member appointed by the Governor, the notice must also indicate whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.<sup>5</sup>

## ***WHERE TO POST THE NOTICE?***

FOIA requires that all public bodies post notices in two physical locations:

1. In a prominent public location at which notices are regularly posted, **and**
2. In the office of the clerk of the public body, or in the case of a public body that has no clerk, in the office of the chief administrator.

State public bodies must also post notice on their own websites and on the Commonwealth Calendar website. Electronic publication of meeting notices by other public bodies is encouraged, but not required.

**NOTE:** Electronic posting must be **in addition** to the physical posting detailed above.<sup>6</sup>

## ***WHO ELSE IS ENTITLED TO NOTICE OF MEETINGS?***

---

<sup>3</sup> Statutory references: § 2.2-3708, § 2.2-3708.1. FOIA Advisory Opinions AO-1-01, AO-16-02, AO-21-04, AO-12-08, AO-07-09.

<sup>4</sup> Statutory references: §§ 2.2-3700, 2.2-3707. FOIA Council Opinions AO-40-01, AO-06-02, AO-17-02, AO-13-03, AO-15-04.

<sup>5</sup> Statutory reference: § 2.2-3707(C). FOIA Council Opinions AO-13-00, AO-3-01, AO-18-01, AO-43-01, AO-06-02, AO-23-03, AO-02-04, AO-06-07, AO-08-07, AO-03-09.

<sup>6</sup> Statutory reference: § 2.2-3707(C). FOIA Council Opinions AO-18-01, AO-43-01, AO-08-07, AO-03-09.



Any person who annually files a written request for notification with a public body is entitled to receive direct notification of all meetings of that public body. If the person requesting notice does not object, the public body may provide the notice electronically.

The request for notice shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any.<sup>7</sup>

### ***WHEN TO POST THE NOTICE?***

*For regular meetings:* The notice must be posted at least three working days prior to the meeting.

*For special or emergency meetings:* Notice, reasonable under the circumstance, of special or emergency meetings must be given at the same time as the notice provided members of the public body conducting the meeting. FOIA defines an emergency as "an unforeseen circumstance rendering the notice required by FOIA impossible or impracticable and which circumstance requires immediate action."<sup>8</sup>

### ***MAY THE PUBLIC OR MEDIA RECORD THE MEETING?***

Yes. Any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open.<sup>9</sup>

### ***MAY A PUBLIC BODY RESTRICT THE USE OF RECORDING DEVICES?***

Yes. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a meeting to prevent interference with the proceedings.<sup>10</sup>

### ***WHEN MUST AGENDA MATERIALS BE AVAILABLE TO THE PUBLIC/MEDIA?***

At least one copy of all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting must be made available for public inspection at the same time the packets or materials are furnished to the members of the public body.<sup>11</sup>

### ***ARE THERE ANY EXCEPTIONS FOR TAKING MINUTES?***

Yes. Minutes are required to be taken only at open meetings; minutes are not required to be taken during closed meetings. Minutes are also not required to be taken at deliberations of:

1. Standing and other committees of the General Assembly;
2. Legislative interim study commissions and committees, including the Virginia Code Commission;
3. Study committees or commissions appointed by the Governor; or

---

<sup>7</sup> Statutory reference: § 2.2-3707(E). FOIA Council Opinions AO-3-01, AO-13-03, AO-23-03, AO-08-07.

<sup>8</sup> Statutory references: § 2.2-3707(C),(D). FOIA Council Opinions AO-13-00, AO-3-01, AO-18-01, AO-06-02, AO-08-07.

<sup>9</sup> Statutory reference: § 2.2-3707(H). FOIA Council Opinions AO-03-03, AO-10-05.

<sup>10</sup> Statutory reference: § 2.2-3707(H). FOIA Council Opinions AO-03-03, AO-10-05.

<sup>11</sup> Statutory reference: § 2.2-3707(F). FOIA Council Opinions AO-3-01, AO-35-01, AO-23-03, AO-05-12.



4. Study commissions or study committees, or any other committees or subcommittees appointed by the governing body or school board of a county, city or town, except where the membership of the commission, committee or subcommittee includes a majority of the members of the governing body.<sup>12</sup>

#### ***WHAT DO MINUTES HAVE TO LOOK LIKE?***

Minutes are required (except as noted above) of all open meetings, and must include: the date, time, and location of the meeting; the members of the public body present and absent; a summary of matters discussed; and a record of any votes taken. In addition, motions to enter into a closed meeting and certification after a closed meeting must be recorded in the minutes.<sup>13</sup>

#### ***ARE MINUTES PUBLIC RECORDS UNDER FOIA?***

Yes. Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual recordings, are public records and must be released upon request.<sup>14</sup>

#### ***IS THERE AN AFFIRMATIVE OBLIGATION TO POST MINUTES?***

Yes, but **only for state agencies in the executive branch.**

All boards, commissions, councils, and other public bodies created in the executive branch of state government and subject to FOIA must post minutes of their meetings on the Commonwealth Calendar website.

Draft minutes of meetings must be posted as soon as possible but no later than 10 working days after the conclusion of the meeting. Final approved meeting minutes must be posted within three working days of final approval of the minutes.<sup>15</sup>

#### ***MUST ALL VOTES OF A PUBLIC BODY TAKE PLACE IN AN OPEN MEETING?***

Yes. Any and all votes taken to authorize the transaction of any public business must be taken and recorded in an open meeting.

A public body may not vote by secret or written ballot.<sup>16</sup>

#### ***IS IT A FOIA VIOLATION TO POLL MEMBERS OF A PUBLIC BODY?***

No. Nothing in FOIA prohibits separately contacting the membership, or any part thereof, of any public body for the purpose of ascertaining a member's position with respect to the transaction of public business. Such contact may be done in person, by telephone, or by electronic communication, provided the contact is done on a basis that does not constitute a meeting as defined in FOIA.<sup>17</sup>

---

<sup>12</sup> Statutory reference: § 2.2-3707(I). FOIA Council Opinion AO-08-07.

<sup>13</sup> Statutory references: §§ 2.2-3707(I), 2.2-3712(A),(D). FOIA Council Opinions AO-25-04, AO-01-06.

<sup>14</sup> Statutory reference: § 2.2-3707(I). FOIA Council Opinions AO-13-03, AO-25-04.

<sup>15</sup> Statutory reference: § 2.2-3707.1.

<sup>16</sup> Statutory reference: § 2.2-3710(A). FOIA Council Opinions AO-9-00, AO-15-02, AO-01-03, AO-13-03, AO-01-05, AO-05-09, AO-07-09.

<sup>17</sup> Statutory reference: § 2.2-3710(B). FOIA Council Opinions AO-08-02, AO-15-02, AO-01-03, AO-07-09.



### III. CLOSED MEETING PROCEDURES

#### ***WHAT DOES A PUBLIC BODY HAVE TO DO TO CLOSE A MEETING?***

In order to conduct a closed meeting, the public body must take an affirmative recorded vote in an open meeting approving a motion that:

1. Identifies the subject matter for the closed meeting;
2. States the purpose of the closed meeting; **and**
3. Makes specific reference to the applicable exemption from the open meeting requirements.

The motion must be set forth in detail in the minutes of the open meeting.

**A general reference to the provisions of FOIA, the authorized exemptions from open meeting requirements, or the subject matter of the closed meeting is not sufficient to satisfy the requirements for holding a closed meeting.<sup>18</sup>**

#### ***WHAT MAY BE DISCUSSED DURING A CLOSED MEETING?***

A public body holding a closed meeting must restrict its discussions during the closed meeting to those matters **specifically exempted** from the provisions of FOIA and **identified in the motion.<sup>19</sup>**

#### ***AT THE END OF A CLOSED MEETING, WHAT DOES THE PUBLIC BODY HAVE TO DO?***

At the conclusion of any closed meeting, the public body holding the meeting must immediately reconvene in an open meeting and take a roll call or other recorded vote certifying that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements under this chapter, **and**
2. Only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body.

The vote must be included in the minutes of the open meeting.

Any member of the public body who believes that there was a departure from the requirements of (1) or (2) above must state so prior to the vote and indicate the substance of the departure that, in his judgment, has taken place. This statement must also be recorded in the minutes of the open meeting.<sup>20</sup>

#### ***WHEN DO DECISIONS MADE IN A CLOSED MEETING BECOME OFFICIAL ACTIONS OF THE PUBLIC BODY?***

---

<sup>18</sup> Statutory reference: § 2.2-3712(A). FOIA Council Opinions AO-8-00, AO-19-00, AO-14-01, AO-38-01, AO-45-01, AO-08-02, AO-17-02, AO-02-04, AO-24-04, AO-01-05, AO-06-07, AO-13-07, AO-04-08, AO-13-09, AO-03-13.

<sup>19</sup> Statutory reference: § 2.2-3712(C). FOIA Council Opinions AO-8-00, AO-13-07, AO-13-09.

<sup>20</sup> Statutory references: § 2.2-3712(D),(E). FOIA Council Opinions AO-8-00, AO-17-02, AO-02-04, AO-06-07, AO-04-08.



Decisions become official when the public body reconvenes in an open meeting, reasonably identifies the substance of the decision, and takes a recorded vote on the resolution, ordinance, rule, contract, regulation, or motion agreed to in the closed meeting. Otherwise, no resolution, ordinance, rule, contract, regulation, or motion adopted, passed, or agreed to in the closed meeting is effective.

Public officers improperly selected due to the failure of the public body to comply with the other provisions of § 2.2-3711 will become *de facto* officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.<sup>21</sup>

***CAN THERE BE A CLOSED MEETING WITHOUT FIRST HAVING AN OPEN MEETING?***

No. A closed meeting can take place only within the context of an open meeting, even if the closed meeting is the only agenda item. A closed meeting motion must be made in an open meeting. After the conclusion of the closed meeting, the members of the public body must reconvene in an open meeting to certify that they restricted their discussion during the closed meeting to those matters specifically exempted from the provisions of FOIA and identified in the motion.<sup>22</sup>

#

---

<sup>21</sup> Statutory references: § 2.2-3711(B),(C). FOIA Council Opinions AO-23-01, AO-38-01, AO-15-02, AO-01-03, AO-13-03, AO-24-04, AO-01-05, AO-13-09.

<sup>22</sup> FOIA Council Opinions AO-02-04, AO-06-07, AO-08-07, AO-13-09, AO-02-10.



## APPENDIX A

### How To Make A Motion To Convene A Closed Meeting

#### The Requirements

Section 2.2-3712(A) states that *no closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the subject matter, (ii) states the purpose of the meeting and (iii) makes specific reference to the applicable exemption from open meeting requirements.* (Emphasis added.)

FOIA Council opinions have held that a motion that lacks any of these three elements is insufficient under the law and would constitute a procedural violation.<sup>23</sup> Here's a step-by-step look at how to put together a motion that meets all three requirements:

#### *1. Identify the subject matter:*

- The identification of the subject goes beyond a general reference to the exemption, and provides the public with information as to specifically why the closed meeting will be held. The subject matter describes the particular fact, scenario, or circumstances that will be discussed by the public body during the closed meeting.
- The specificity required for identification of the subject must be determined on a case-by-case basis. It involves balancing FOIA's policy of affording citizens every opportunity to witness the operations of government with the need of the public body to hold certain discussions in private. The identification of the subject need not be so specific as to defeat the reason for holding a closed meeting in the first place.
- Examples of identification of the subject: discussion of candidates for the appointment of a new city manager; discussion of the appropriate disciplinary action to take against a student for violation of school policy; discussion of probable litigation relating to highway construction.<sup>24</sup>

#### *2. State the purpose:*

- The purpose refers to the general, statutorily allowed meeting exemptions set forth at § 2.2-3711(A). Section 2.2-3711(A) states that *public bodies may only hold closed meetings for the following purposes* (emphasis added) and then sets forth the exemptions.
- Examples of purposes: personnel matters; student admissions or discipline; consultation with legal counsel.

---

<sup>23</sup> FOIA Advisory Opinions AO-14-01, AO-38-01, AO-45-01, AO-08-02, AO-24-04, AO-01-05, AO-06-07, AO-04-08, AO-13-09, AO-02-10, AO-03-13.

<sup>24</sup> Example of probable litigation taken from FOIA Advisory Opinion AO-14-01.



***3. Make specific reference to the applicable exemption:***

- All of the meetings exemptions can be found at § 2.2-3711(A). It is not enough to cite this general Code provision, because § 2.2-3711(A) includes 44 different exemptions. Instead, the citation must be as specific as possible.
- Examples of specific Code references: § 2.2-3711(A)(1); § 2.2-3711(A)(2); § 2.2-3711(A)(7).

**Putting It All Together**

Based upon the analysis above, here are three examples of motions to go into closed session that satisfy the minimum requirements of § 2.2-2712(A). It is always appropriate to include more information, and any motion should be tailored with additional facts describing the particular scenario being addressed by the public body.

1. I move that (insert name of public body) convene in closed session to discuss the candidates being considered for the appointment of a new city manager pursuant to the personnel exemption at § 2.2-3711(A)(1) of the Code of Virginia.
2. I move that (insert name of public body) convene in closed session to discuss the appropriate disciplinary action to take against an individual student for violation of school policy pursuant to the scholastic exemption at § 2.2-3711(A)(2) of the Code of Virginia.
3. I move that (insert name of public body) convene in closed session to meet with legal counsel about probable litigation relating to highway construction pursuant to the consultation with legal counsel exemption at § 2.2-3711(A)(7) of the Code of Virginia.

Remember, the appropriateness of any given motion is fact-based, and no “fill-in-the-blank” model motion will work in all situations. When drafting a motion, go down the checklist and ensure that you have included all three elements. Keep in mind the balancing required to keep citizens informed of the workings of a public body while maintaining the integrity of the closed session. Please do not hesitate to contact the FOIA Council to discuss these requirements or the sufficiency of a specific motion.

#





## APPENDIX B

### Meeting Exemptions Of General Applicability

As of July 2011, FOIA contains more than 40 open meeting exemptions. Although many of these exemptions apply to specific agencies or to very content-specific discussions, there are several open meeting exemptions of general applicability that may be used by virtually all public bodies. The open meeting exemptions of general applicability are listed below, with the corresponding statutory citation, as a reference tool.

**§ 2.2-3711(A)(1): Personnel.** Provides an exemption for:

Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

**§ 2.2-3711(A)(2): Students.** Provides an exemption for:

Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

**§ 2.2-3711(A)(3): Acquisition & disposition of property.** Provides an exemption for:

Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

**§ 2.2-3711(A)(4): Privacy.** Provides an exemption for:

The protection of the privacy of individuals in personal matters not related to public business.

**§ 2.2-3711(A)(5): Prospective business.** Provides an exemption for:



Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

**§ 2.2-3711(A)(6): Investment of public funds.** Provides an exemption for:

Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

**§ 2.2-3711(A)(7): Legal advice.** Provides an exemption for:

Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

**§ 2.2-3711(A)(11): Tests & exams.** Provides an exemption for:

Discussion or consideration of tests, examinations, or other records excluded from this chapter pursuant to subdivision 4 of § 2.2-3705.1.

**§ 2.2-3711(A)(15): Medical.** Provides an exemption for:

Discussion or consideration of medical and mental health records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.5.

**§ 2.2-3711(A)(19): Public safety.** Provides an exemption for:

Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

**§ 2.2-3711(A)(29). Contracts.** Provides an exemption for:

Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

#

July 2013



**FOIA AND MEMBERS OF PUBLIC BODIES**

**E-MAIL AND MEETINGS:** The VA Supreme Court has held that e-mails may constitute a "meeting" under FOIA if there is simultaneous e-mail communication between three or more board members. Avoid "reply to all" as a general rule. See FOIA Council handout entitled "*Email and Meetings*" available on the FOIA Council website.

\*\*\*\*\*

**\*RECORDS\***

**WHAT is a PUBLIC RECORD?**

ALL writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.

**ALL public records are OPEN to the public UNLESS** a specific exemption in law allows the record to be withheld.

**FOIA AND MEMBERS OF PUBLIC BODIES**

**WHAT about RETENTION of PUBLIC RECORDS?**

Public records **MUST** be retained according to retention schedules set by the Library of Virginia. The length of retention depends on the content of the record. After expiration of the applicable retention period, the records may be destroyed or discarded.

\*\*\*\*\*

**\*E-MAILS\***

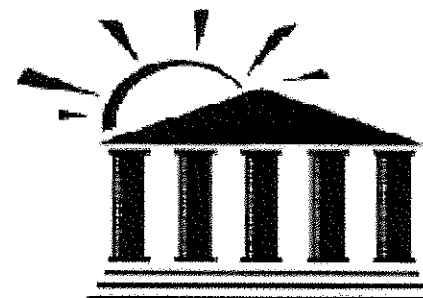
Emails that relate to the public business are public records, regardless of whether you use your home or office computer, text or other forms of social media. It is the **content** of the record, not the equipment used, that controls.

As such, these emails must be retained as required by the VA Public Records Act. For practical advice for email use, access and retention, see FOIA Council handout entitled "*Email: Use, Access and Retention*" available on the FOIA Council website.

\*\*\*\*\*

**VA Freedom of Information Advisory Council:**  
**Maria J.K. Everett**, *Executive Director and Senior Attorney*  
**Alan Gernhardt**, *Staff Attorney*  
Email: [foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov)  
Telephone (804) 225-3056  
Toll-Free 1-866-448-4100  
<http://foiacouncil.dls.virginia.gov>

*A Guide to the Freedom of  
Information Act for  
Members of  
Boards, Councils,  
Commissions, and other  
Deliberative Public Bodies*



*Prepared by the Virginia Freedom of  
Information Advisory Council*

FOIA AND MEMBERS OF PUBLIC BODIES

\*POLICY OF FOIA\*

*By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to records in the custody of public officials and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government.*

*Unless a public body or public official specifically elects to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.*

FOIA AND MEMBERS OF PUBLIC BODIES

\*MEETING REQUIREMENTS\*

**What is considered a MEETING under FOIA?**

ANY gathering, including work sessions, of the constituent membership, sitting (or through telephonic or video equipment pursuant to § 2.2-3708 or § 2.2-3708.1) as:

- the board, or
- an informal assemblage of
  - (i) as many as three members, or
  - (ii) a quorum, if less than three, of the constituent membership,

WHEREVER the gathering is held;

**REGARDLESS OF WHETHER minutes are taken OR votes are cast.**

**NOTE:** This requirement also applies to ANY meeting, including work sessions, of any subgroup of the board, regardless how subgroup is designated (i.e. subcommittee, task force, workgroup, etc.).

**WHAT is NOT a MEETING?**

- The gathering of employees; or
- The gathering or attendance of two or more board/council members at:
  - Any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business; OR
  - A public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to discuss or transact public business.

FOIA AND MEMBERS OF PUBLIC BODIES

\*OTHER FOIA PROVISIONS\*

**MINUTES:** Minutes ARE REQUIRED for any meeting of the board/subgroup of the board.

**VOTING:** NO secret or written ballots are ever allowed.

**POLLING:** You MAY contact individual members **separately (one-on-one)** to ascertain their positions by phone, letter or email. **REMEMBER:** This exemption CANNOT be used in lieu of a meeting. **REMEMBER ALSO:** If you choose to use email to poll, you are creating a public record!

**CLOSED MEETINGS:** Allowed ONLY as specifically authorized by FOIA or other law and **REQUIRES** a motion stating the purpose, the subject *and* Code cite. [See § 2.2-3711 of FOIA for allowable purposes for closed meetings.]

**E-MEETINGS:** Are allowed for state public bodies under heightened procedural and reporting requirements (i.e. quorum must be physically assembled in one location, remote meeting locations must be open to the public, etc.). For all public bodies, limited individual participation by electronic means is allowed under certain circumstances (emergency or personal matter, medical reason, or distance in the case of regional public bodies). [See § § 2.2-3708 and 2.2-3708.1 of FOIA.]



*Department of Medical Assistance Services*



# 2014 Legislative Session Funding Actions

Presentation to the  
Board of Medical Assistance Services

---

June 17, 2014

# DMAS Funding Summary

	FY2015		FY2016	
	State Funds	Total Funds	State Funds	Total Funds
<b>Base Appropriation*</b>	<b>\$4,237</b>	<b>\$8,580</b>	<b>\$4,237</b>	<b>\$8,580</b>
U&I Forecasts	\$256.3	\$451.5	\$363.1	\$719.3
Spending Initiatives	\$61.6	\$133.1	\$77.8	\$165.1
Reductions/Savings	(\$80.7)	(\$136.8)	(\$79.9)	(\$158.5)

<b>McDonnell Introduced Budget</b>	<b>\$4,474</b>	<b>\$9,028</b>	<b>\$4,598</b>	<b>\$9,306</b>
Net Change	\$237.2	\$447.8	\$361.0	\$725.9

<b>Special Session Budget (6/13)</b>	<b>\$4,434</b>	<b>\$8,975</b>	<b>\$4,579</b>	<b>\$9,218</b>
Net Change	(\$40.1)	(\$52.8)	(\$60.6)	(\$88.1)

\*Appropriation and amendments reflect the DMAS budget, in millions

# Budget Comparisons: Waiver Slots

Introduced Budget	Special Session Budget
Provided for 340 new ID slots in 2015; 360 in 2016 (total of 700 in the biennium)	Reduced 340 to 115; increased 360 to 410 (total of 525, not 700, in biennium)
Provided for 25 new DD slots in 2015; 25 in 2016 (total of 50 in the biennium)	Reduced (first year) 25 to 15; increased (second year) 25 to 40 (total of 55, not 50, in biennium)

# Budget Comparisons: Hospitals & NFs

Introduced Budget	Special Session Budget
Withheld hospital inflation in 2015	Withheld hospital inflation also in FY16
Indigent care and prior year inflation reductions for teaching hospitals in FY15	Continued indigent care and prior year inflation reductions for teaching hospitals in FY16
Increased supplemental payments limit for CHKD	Eliminated increase in supplemental payments limit for CHKD
	Reduced nursing home capital (both years) Reduced nursing home inflation in FY 2016



# Budget Comparisons: Other Providers

Introduced Budget	Special Session Budget
Funded elimination of ER Pend Process for FFS Physicians	Removed GF Funding to Eliminate ER Pend Program
Reduced Funding associated with matching Medicare Competitive Bid DME Rates	
Reduced clinical laboratory fees to match managed care rates	
Authorized change in units for Mental Health Skill Building Services	Prohibited Change in Unit of Service or Reimbursement Rates for Mental Health Skill-Building Services
	Removed Inflation for Rehabilitation and Home Health Agencies
	Restored Funding for FAMIS MOMS Program

# Budget Comparisons: Other Provisions

- “...notwithstanding any other provision of this act, or any other law, no general or nongeneral funds shall be appropriated or expended for such costs as may be incurred to implement coverage for newly eligible individuals pursuant to 42 U.S.C. § 1396d(y)(1)(2010) of the Patient Protection and Affordable Care Act, unless included in an appropriation bill adopted by the General Assembly on or after July 1, 2014.”



# Medicaid 101

## Board of Medical Assistance Services (BMAS)

*Cindi B. Jones, Director*

*Virginia Department of Medical Assistance Services*

*June 17, 2014*

# Medicaid Has Many Vital Roles In Our Health Care System

## Health Insurance Coverage

31 million children & 16 million adults in low-income families; 16 million elderly and persons with disabilities

## Assistance to Medicare Beneficiaries

9.4 million aged and disabled — 20% of Medicare beneficiaries

## Long-Term Care Assistance

1.6 million institutional residents; 2.8 million community-based residents

## MEDICAID

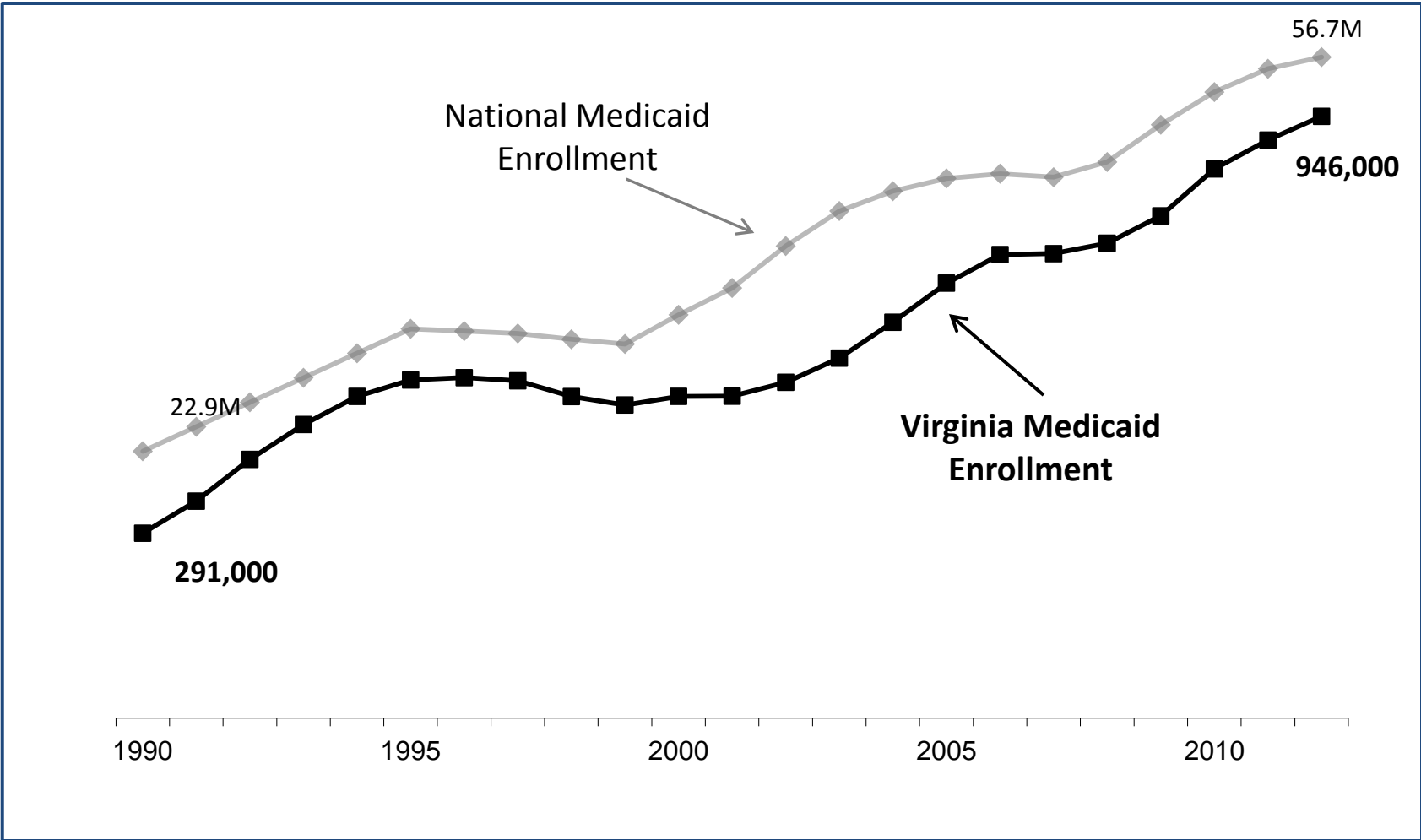
## Support for Health Care System and Safety-net

16% of national health spending; 40% of long-term care services

## State Capacity for Health Coverage

Federal share can range from 50 - 83%; For FFY 2012, ranges from 50 - 74.2%

# Medicaid Enrollment



Note: For the purposes of this presentation, the term “Medicaid” is used to represent both Virginia’s Title XIX Medicaid and Title XXI CHIP programs.  
 Source: National Medicaid Enrollment - 2010 Actuarial Report On The Financial Outlook For Medicaid . Office of the Actuary, Centers for Medicare & Medicaid Services, and the U.S. Department of Health & Human Services

# Who is Eligible for Medicaid?

- Eligibility is EXTRAORDINARILY complex!
- Currently, to qualify for Medicaid, individuals must:
  - Meet financial eligibility requirements; *AND*
  - Fall into a “covered group” such as:
    - Aged, blind, and disabled;
    - Pregnant;
    - Child; or
    - Caretaker parents of children.
- Currently, Virginia Medicaid does **not** provide medical assistance for all people with limited incomes and resources.

# Two “Doors” of Medicaid Eligibility

## Categorical

(e.g., children, pregnant women)



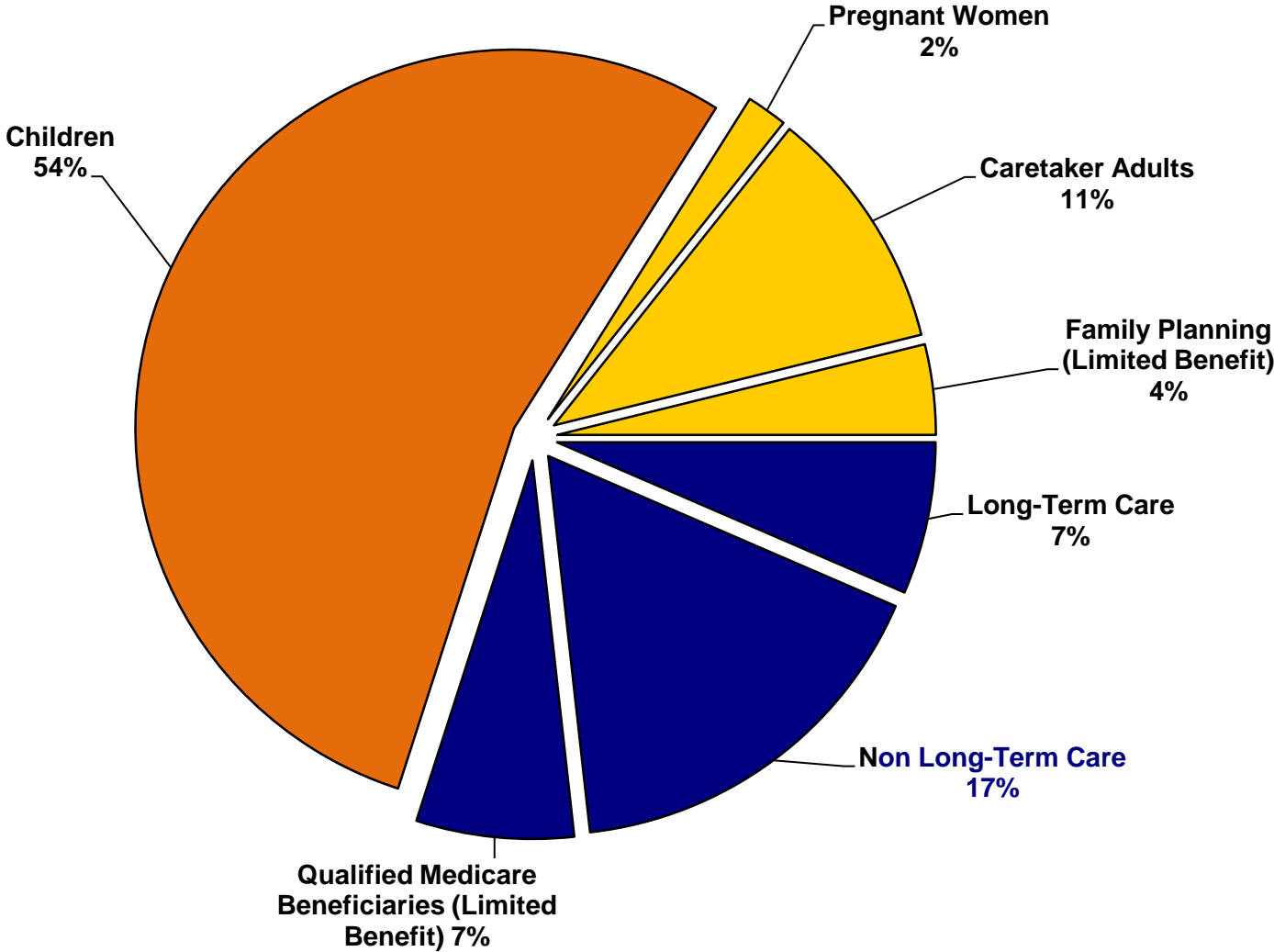
## Financial

(income limits)



# Medicaid Enrollment Composition

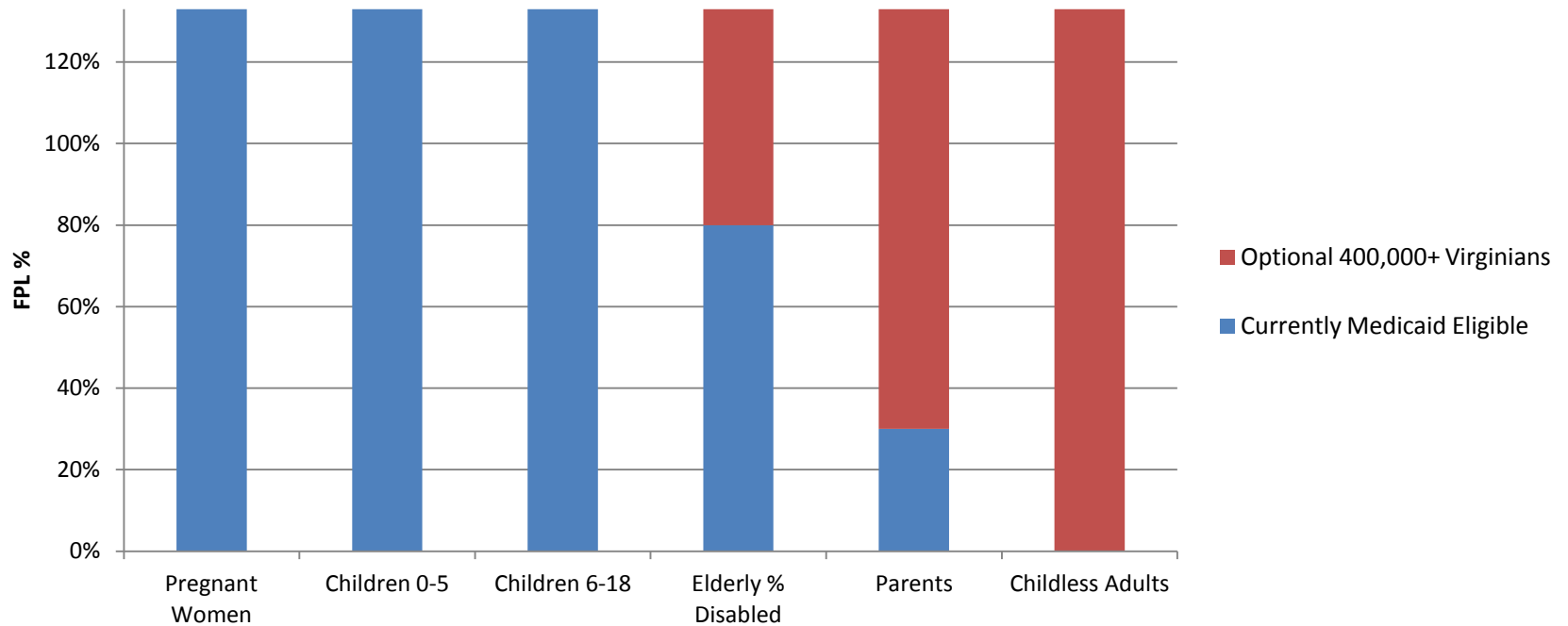
## SFY 2013



\*Percentages may not add due to rounding



# Current vs. Optional Eligibility



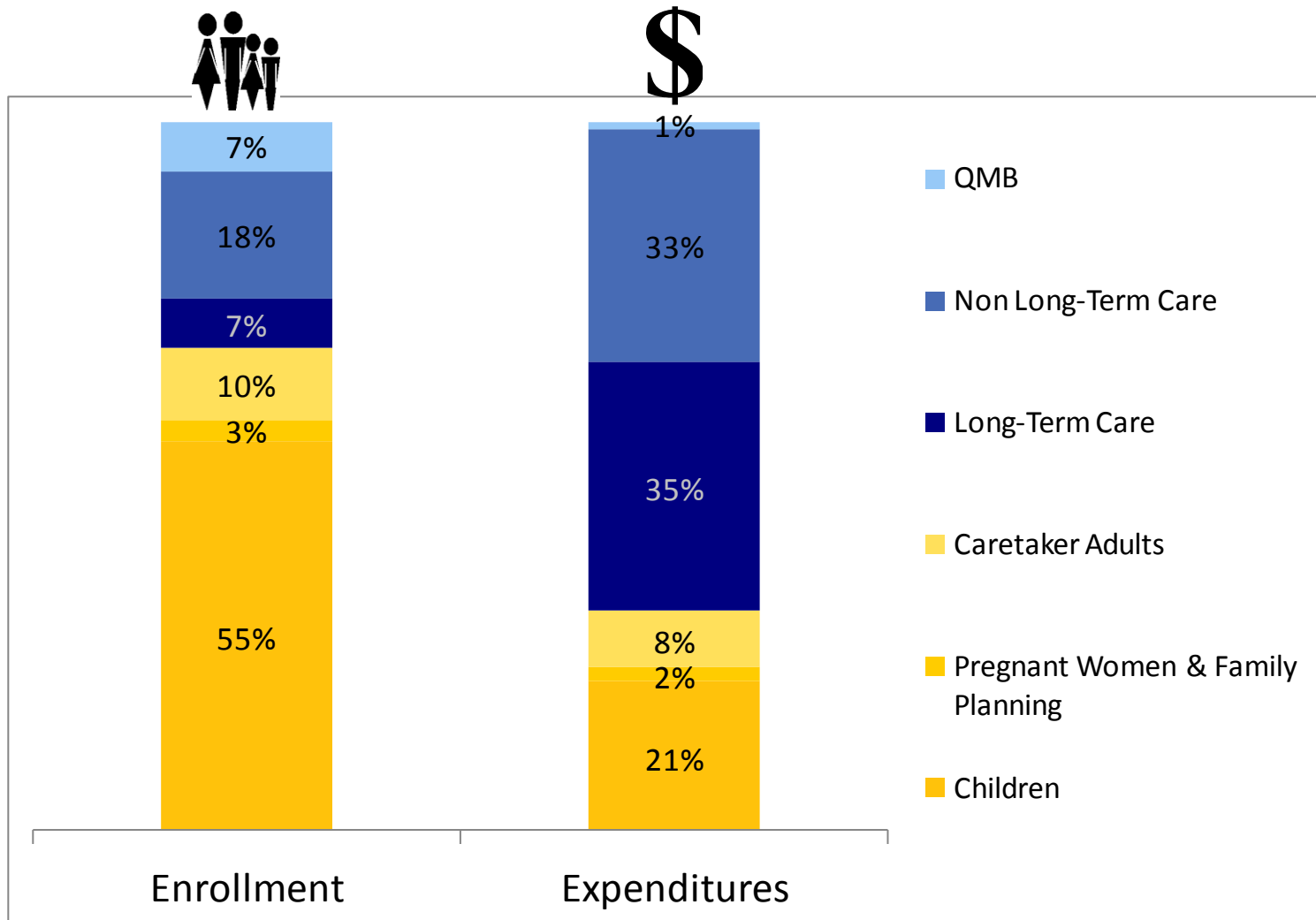
Because the Supreme Court ruled that Medicaid expansion under the Affordable Care Act (ACA) is optional, Virginia has the opportunity to receive federal funding to cover over 400,000 eligible individuals with incomes under 133% FPL. States that expand coverage, must expand coverage to 133% FPL.

# 2014 Federal Poverty Level (FPL) Guidelines

Family Size	Annual Family Income			
	100% FPL	133% FPL	185% FPL	200% FPL
1	\$11,670	\$15,521	\$21,589	\$23,340
2	\$15,730	\$20,920	\$29,100	\$31,460
3	\$19,790	\$26,320	\$36,611	\$39,580
4	\$23,850	\$31,720	\$44,122	\$47,700
5	\$27,910	\$37,120	\$51,663	\$55,820

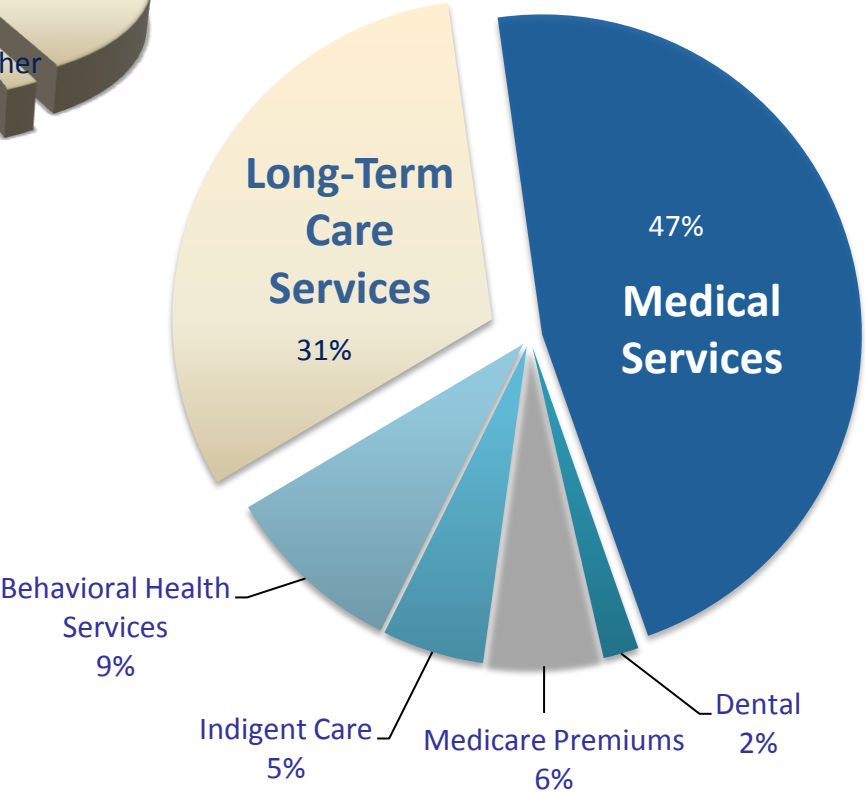
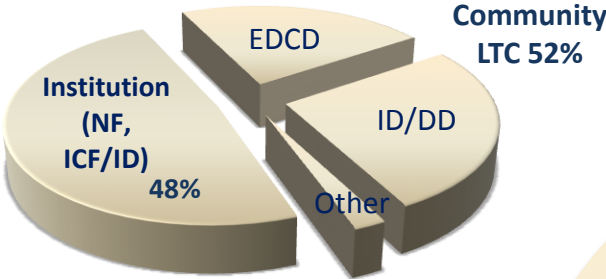
Source: 2014 Federal Poverty Guidelines, U.S. Dept. of Health and Human Services

# Virginia Medicaid Enrollment v. Spending

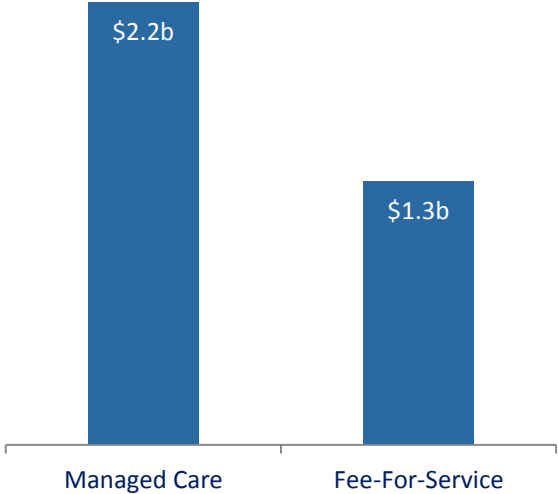


# Composition of Virginia Medicaid Expenditures – SFY 2013

## Long-Term Care Expenditures



## Medical Services by Delivery Type



Notes:

# What Services Does Medicaid Cover?

## Mandatory

- Inpatient Hospitalization
- Outpatient Hospital Services
- Physicians' Services
- Lab & X-Ray Services
- Home Health
- Nursing Facility Services
- Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services for Children
- Non-Emergency Transportation

## Optional

- Prescription Drugs
- Eyeglasses & Hearing Aids (Children Only)
- Organ Transplants
- Psychologists' Services & other Behavioral Health Services
- Podiatrists' Services
- Dental Services (Children Only)
- Physical, Occupational and Speech Therapies
- Rehabilitative Services
- Intermediate Care Facilities for Individuals with Intellectual Disabilities
- Case Management (only through select HCBS waivers)
- Emergency Hospital Services
- Hospice
- Prosthetic Devices
- Home and community based care, such as Personal Care (only through HCBS waivers)

# Medicaid Service Delivery Structure (Current)

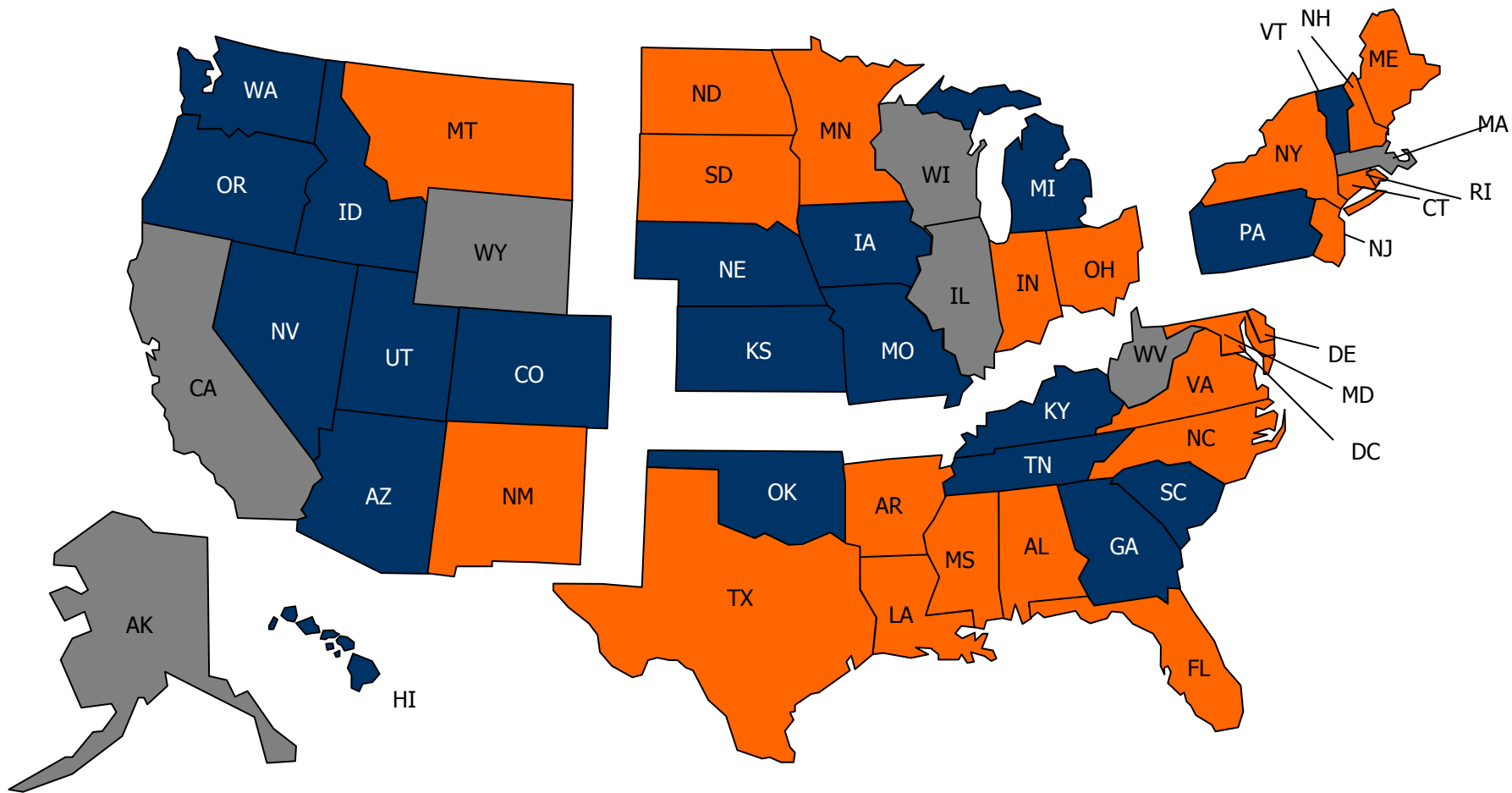
## Fee-for-Service

- Directly administered by the state.
- Participants typically fall into these groups:
  - New enrollees waiting for MCO assignment
  - Most individuals receiving Home- and Community-Based services
  - Individuals in LTC settings
  - Individuals with other insurance
  - Dual eligibles (Medicaid and Medicare enrollees) (majority moving to MCOs in 2014)
  - Foster Care Children (moving to MCOs 2013-2014)

## Contracted

- MCO: Managed care organizations provide care to beneficiaries through contracts with the state.
  - The MCOs do not provide certain services. These services are referred to as being “carved out.” (E.g., community mental health and dental for children)

# Over 70 Percent of Medicaid Beneficiaries Enrolled in Managed Care, 2009



**U.S. Average = 71.7%**

- 0 - 60% (7 states)**
- 61-80% (23 states including DC)**
- 81-100% (21 states)**

SOURCE: Medicaid Managed Care Penetration Rates by State as of June 30, 2009, CMS, U.S. Department of Health and Human Services.



## 700,000 Virginia Enrollees in Managed Care

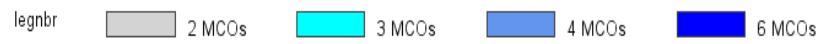
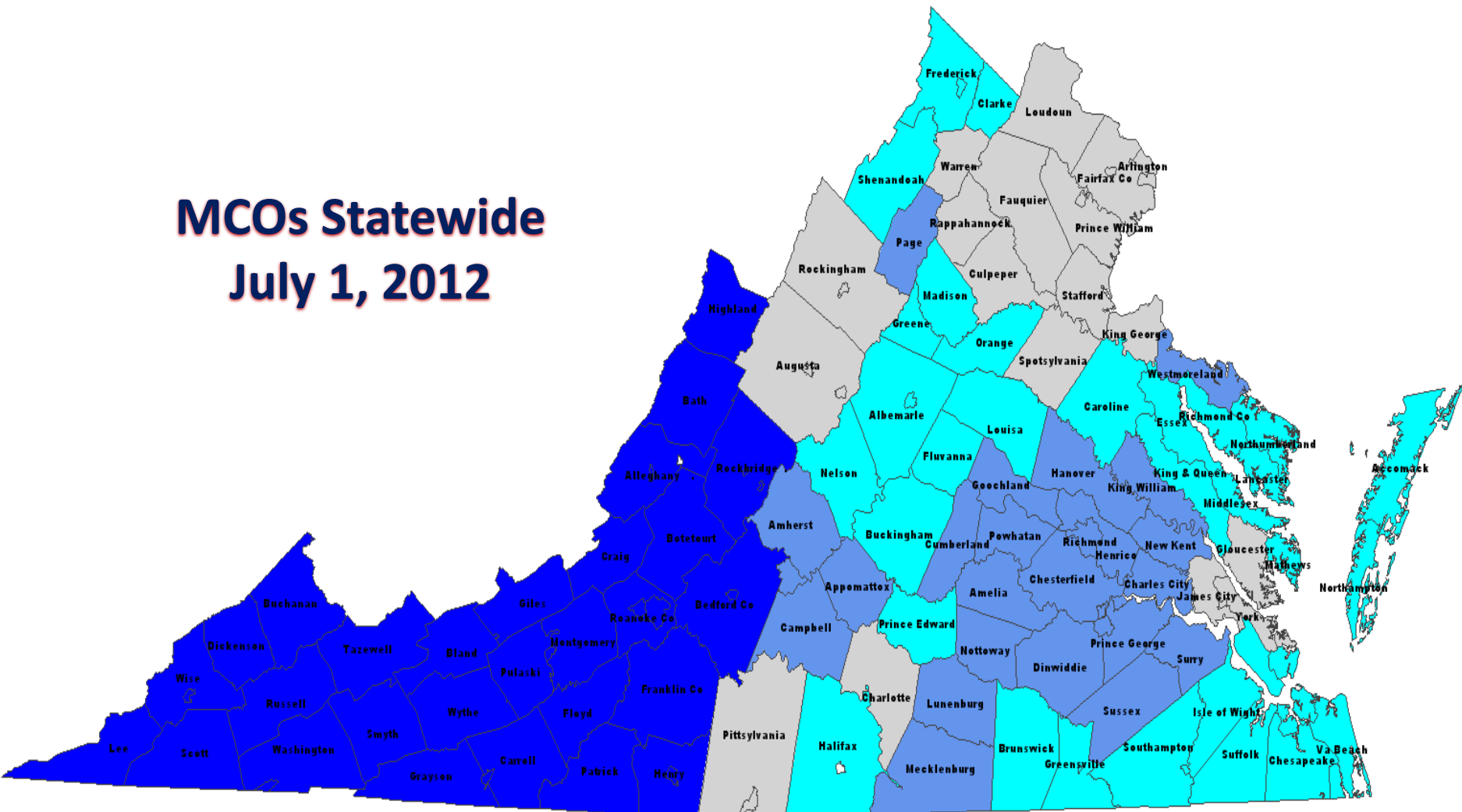




# Virginia Department of Medical Assistance Services

Number of MCOs Per Locality

## MCOs Statewide July 1, 2012



# Virginia Medicaid Reforms



# Medicaid is Always Reforming: Major Reforms Since 2000

- ❑ **2001:** *FAMIS* Program Implemented. In 2001, less than 300,000 children; today more than 550,000.
- ❑ **2002:** Since this year, added 4,800 slots to ID waiver, 775 slots to DD waiver. In SFY, 2012: Over 50% of long-term care services being delivered in the community, as opposed to institutionalization
- ❑ **2004:** Preferred Drug List and other reforms for FFS. More than \$70 million in supplemental rebates
- ❑ **2005:** *FAMIS MOMs* implemented; raised to 200% FPL in 2009

# Medicaid is Always Reforming: Major Reforms Since 2000

- ❑ **2005:** *Smiles For Children* dental program implemented; 188% increase in provider participation; children receiving dental care doubled.
- ❑ **2008:** Program Integrity efforts on community mental health services increased. Created internal Office of Behavioral Health. Behavioral Health Services Administrator (Magellan) in 2013.
- ❑ **2012:** Drug rebates related to ACA; over \$569 million for drugs dispensed by MCOs; \$198 million in this year.
- ❑ **2012:** Statewide expansion of Managed Care; 700,000 enrollees.

# Updates to Reforms

Budget language passed by the 2013 General Assembly established a series of reforms to Medicaid as well as the Medicaid Innovation and Reform Commission.

## All Reforms are Underway

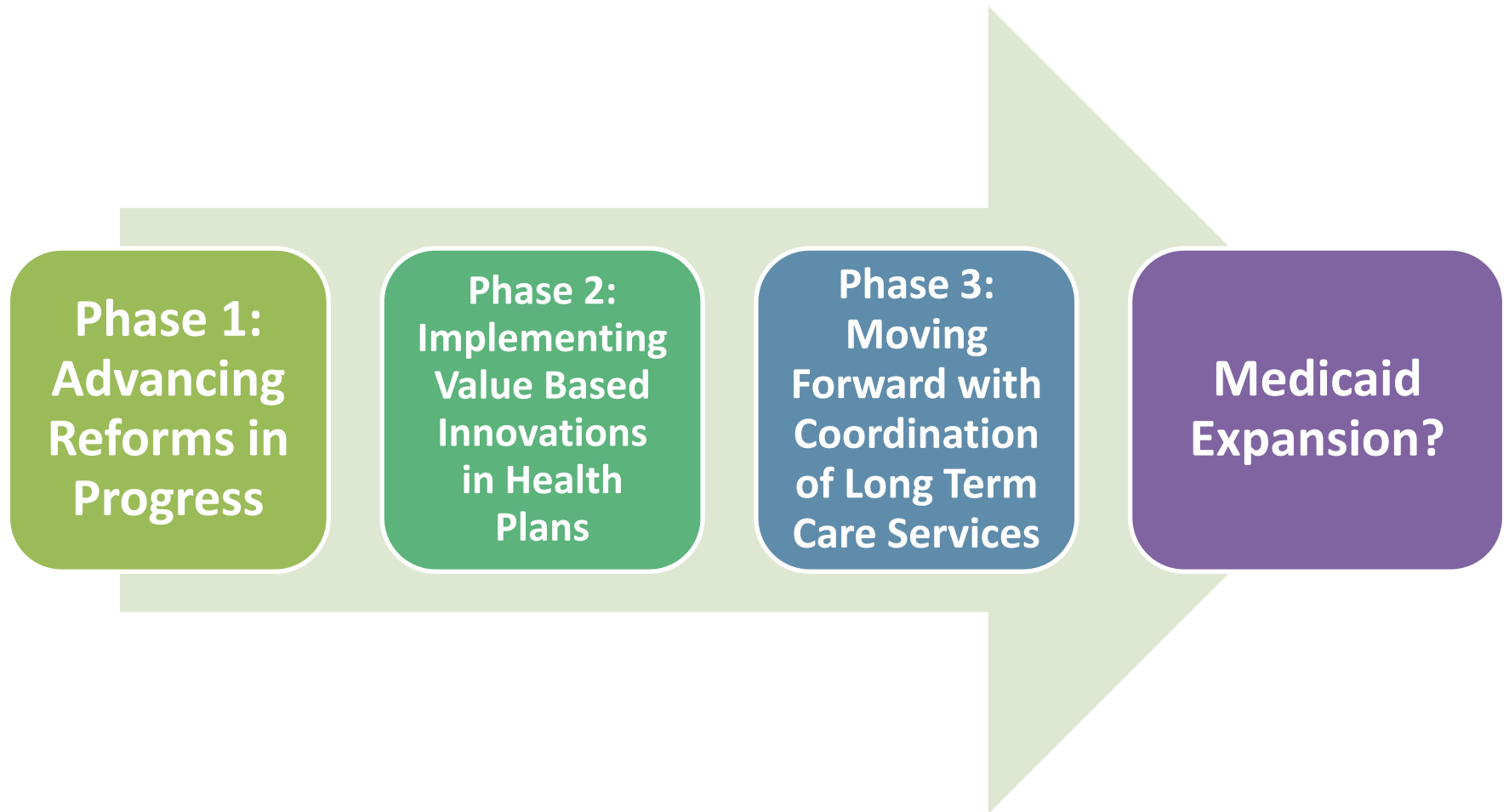
**Phase 1:** Advancing Reforms in Progress

**Phase 2:** Implementing Innovations in Service Delivery, Administration, and Beneficiary Engagement

**Phase 3:** Moving forward with Coordination of Long-Term Services and Supports



# 2013 Legislative Pathway to Medicaid Expansion in Virginia



# Virginia Medicaid Reform Goals

## **Coordinated Service Delivery**

- DMAS provides a health system where services are coordinated, innovation is rewarded, costs are predictable, and provider compensation is based on the quality of the care.

## **Efficient Administration**

- DMAS is efficient, streamlined, and user-friendly. Tax payer dollars are used effectively and for their intended purposes.

## **Beneficiary Engagement**

- Beneficiaries take an active role in the quality of their health care and share responsibility for using Medicaid dollars wisely.

# Phase 1 Reforms

**Budget Language:** In the first phase of reform, the Department of Medical Assistance Services shall continue currently authorized reforms of the Virginia Medicaid/FAMIS service delivery model that shall, at a minimum, include...



# Phase 1 Reforms & Savings

Title & Description	Budget Language	Status
<p><b>Dual Eligible Demonstration Pilot</b></p> <p>The Commonwealth Coordinated Care program for Medicare-Medicaid enrollees (“Dual Eligibles”), whose complex needs account for 41% of the Medicaid budget, provides services through one of three managed care organizations.</p>	<p>(i) implementation of a Medicare-Medicaid Enrollee (dual eligible) Financial Alignment demonstration as evidenced by a Memorandum of Understanding with the Centers for Medicare and Medicaid Services (CMS), signing of a three-way contract with CMS and participating plans, and approval of the necessary amendments to the State Plan for Medical Assistance and any waivers thereof</p>	<p><b>Requirement Met</b>  <b>SFY14-16 Total Savings included in December 2013 Introduced Budget (\$44,028,619)</b></p> <p><i>Update: As of May 30, 2014, 2272 individuals have voluntary enrolled in the program. More than 11,000 more will be enrolled by July 1 in the Tidewater region. Coverage begins in Central Region on September 1; remaining regions on October 1.</i></p>
<p><b>Enhanced Program Integrity</b></p> <p>Extensive enhancement to Medicaid program integrity, including the Recovery Audit Contract, service authorizations, the Medicaid Fraud Control Unit, Payment Error Rate Measurement Review, MMIS Claims Processing Edits, MCO Collaboration, Provider and Recipient Audits.</p>	<p>(ii) enhanced program integrity and fraud prevention efforts to include at a minimum: recovery audit contracting (RAC); data mining; service authorization; enhanced coordination with the Medicaid Fraud Control Unit (MFCU); and Payment Error Rate Measure (PERM);</p>	<p><b>Requirement Met</b>  <b>SFY14-16 Total Savings included in December 2013 Introduced Budget (\$17,066,946)</b></p> <p><i>Update: Prevented \$247+ M in improper payments, 123 MCFU referrals (19) accepted, data analytics contractor identified \$44 M in potential recoveries, \$187,723 in restitution and imprisonment in some cases as fraudulent eligibility, service authorizations avoided \$216 M in costs, MCOs avoided or recovered over \$417 M.</i></p>

Title & Description	Budget Language	Status
<p><b>Foster Care:</b></p> <p>DMAS has transitioned more than 10,000 children in Virginia’s foster care and adoption assistance programs from Medicaid Fee For Service into DMAS contracted MCOs. For further information regarding this transition, please visit:  <a href="http://www.dmas.virginia.gov/Content_pgs/ialtc-plt.aspx">http://www.dmas.virginia.gov/Content_pgs/ialtc-plt.aspx</a></p>	<p>(iii) inclusion of children enrolled in foster care in managed care;</p>	<p><b>Requirement Met</b></p> <p><b>SFY14-16 Total Savings included in December 2013 Introduced Budget (\$13,940,351)</b></p> <p><i>Update:</i>  <b>Tidewater:</b> September 1, 2013 (<b>LIVE</b>);  <b>Central VA:</b> November 1, 2013 (<b>LIVE</b>);  <b>NOVA:</b> December 1, 2013 (<b>LIVE</b>);  <b>Charlottesville:</b> March 1, 2014 (<b>LIVE</b>);  <b>Lynchburg:</b> April 1, 2014 (<b>LIVE</b>);  <b>Roanoke:</b> May 1, 2014 (<b>LIVE</b>) and,  <b>Far Southwest:</b> June 1, 2014 (<b>LIVE</b>).</p>
<p><b>eHHR:</b></p> <p>For Further Information on new Medicaid financial eligibility requirements (referred to as “MAGI”), please visit:  <a href="http://aspe.hhs.gov/health/reports/2013/MAGIConversions/rb.pdf">http://aspe.hhs.gov/health/reports/2013/MAGIConversions/rb.pdf</a></p> <p>For access to Virginia’s new eligibility website, known as the Commonhelp Portal, please visit:  <a href="https://commonhelp.virginia.gov">https://commonhelp.virginia.gov</a></p>	<p>(iv) implementation of a new eligibility and enrollment information system for Medicaid and other social services</p>	<p><b>Requirement Met</b></p> <p><b>SFY14-16 Total Savings included in December 2013 Introduced Budget (\$22,400,000)</b></p> <p><i>Update:</i>  <b>October 2013</b> – Met MAGI deadline. New VaCMS eligibility system went live for new Medicaid/FAMIS applications; now taking Medicaid/FAMIS applications using new financial requirements -MAGI; referrals to Federal Facilitated Marketplace</p> <p><b>January 1, 2014</b> – Additional eligibility rules began (e.g., coverage up to age 26 for foster care youth); hospital presumptive eligibility</p>

Title & Description	Budget Language	Status
<p><b>Veterans</b></p> <p>DMAS, Virginia Department of Veterans Services, and Virginia Department of Social Services are working together to identify protocol and procedures to ensure qualifying Veterans and their family members have access to needed services. Assisting veterans to obtain benefits and avoid Medicaid expenditures when services are more appropriately funded by the Federal Government. The 2012 budget language created this opportunity for the Veterans Benefit Enhancement Program.</p>	<p>(v) improved access to Veterans services through creation of the Veterans Benefit Enhancement Program; and</p>	<p><b>Requirement Met</b></p> <p>Focus on quality improvement</p>
<p><b>Behavioral Health</b></p> <p>In an effort to strengthen the integrity of DMAS' behavioral health program and ensure access to quality behavioral health providers, DMAS has hired a contractor, Magellan of Virginia, to oversee the community behavioral health provider network, authorize services that are not currently being provided through Medicaid MCOs, and reimburse providers for services delivered.</p>	<p>(vi) expedite the tightening of standards, services limits, provider qualifications, and licensure requirements for community behavioral health services.</p>	<p><b>Requirement Met</b></p> <p><b>SFY14-16 Total Savings included in December 2013 Introduced Budget (\$133,960,168)</b></p> <p><i>Updates: December 2013 implementation of strengthened regulations to improve integrity and quality and implementation of the new Behavioral Health Services Administrator (Magellan).</i></p>

## Savings Estimates for Medicaid Reform for Virginia: Phase 1

	SFY 2014 Total Funds/GF	SFY 2015 Total Funds/GF	SFY 2016 Total Funds/GF	SFY 14 – SFY 16 Total Funds/GF
•Dual Eligible Demonstration Pilot	(1,412,218)/ (706,109)	(28,186,175)/ 14,093,088)	(14,430,226)/ (7,215,113)	(44,028,619)/ (22,014,310)
•Enhanced Program Integrity	(5,688,982)/ (2,844,491)	(5,688,982)/ (2,844,491)	(5,688,982)/ (2,844,491)	(17,066,946)/ (8,533,473)
•Foster Care to Managed Care	(2,440,351)/ (1,220,176)	(5,750,000)/ (2,875,000)	(5,750,000)/ (2,875,000)	(13,940,351)/ (6,970,176)
•Ehhr – 75% enhanced FFP for eligibility and enrollment functions (GF savings)	(6,000,000)/ (6,000,000)	(8,200,000)/ (8,200,000)	(8,200,000)/ (8,200,000)	(22,400,000)/ (22,400,000)
•Behavioral Health Regulations Changes	(20,737,969)/ (10,367,532)	(54,615,905)/ (27,304,419)	(58,606,294)/ (29,295,626)	(133,960,168)/ (66,967,577)
<b>TOTALS FOR PHASE 1</b>	(36,279,520)/ (21,138,308)	(102,441,062)/ (55,316,998)	(92,675,502)/ (50,430,230)	(231,396,084)/ (126,885,536)

# Phase 2 Reforms

**Budget Language:** In the second phase of reform, the Department of Medical Assistance Services shall implement value-based purchasing reforms for all recipients subject to a Modified Adjusted Gross Income (MAGI) methodology for program eligibility and any other recipient categories not excluded from the Medallion II managed care program. Such reforms shall, at minimum, include the following:

# Phase 2 Reforms

Title & Description	Budget Language	Status
<p><b>Commercial-like benefit package</b></p> <p>DMAS is aligning medical benefits offered through the Medicaid program with those provided in the commercial marketplace. This will facilitate a less disruptive transition for an individual moving from the Medicaid program into private health coverage; including coverage offered through the federally facilitated (exchange) marketplace.</p>	<p>(i) the services and benefits provided are the types of services and benefits provided by commercial insurers and may include appropriate and reasonable limits on services such as occupational, physical, and speech therapy, and home care; with the exception of non-traditional behavioral health and substance use disorder services;</p>	<p><b>Requirement Met</b></p> <p><b>Fall 2013:</b> Completed side-by-side comparison of DMAS medical services compared to the Essential Health Benefits required for exchange plans under the ACA. This was implemented for the Medicaid Buy-In Program Jan 1. Similar benefit package would be needed to close the coverage gap.</p>
<p><b>Cost Sharing and Wellness</b></p> <p>DMAS views this as an opportunity to guide beneficiaries to the appropriate care setting and become engaged in their overall healthcare. DMAS and the MCOs are working together on innovations in cost sharing and wellness.</p>	<p>(iii) patient responsibility is required including reasonable cost-sharing and active patient participation in health and wellness activities to improve health and control costs</p>	<p><b>Requirement Met</b></p> <p><b>July 2013</b> Managed Care Changes</p> <ul style="list-style-type: none"> <li>• Chronic Care and Assessments</li> <li>• Maternity Program Changes</li> <li>• Wellness Programs</li> </ul>
<p><b>Coordinate behavioral health services</b></p> <p>Aligning and coordination of behavioral health services through the behavioral health services administrator contract</p>	<p>Any coordination of non-traditional behavioral health services covered under contract with qualified health plans or through other means shall adhere to the principles outlined in paragraph RR. e</p>	<p><b>Requirement Met</b></p> <p>BHSA implementation in <b>December 2013</b></p>

Title & Description	Budget Language	Status
<p><b>Limited Provider Networks and Medical Homes</b></p> <p>Creating an agreement with the federal government that allows for limited provider networks would afford Virginia’s MCO’s, health systems, and health care providers to create innovative models of comprehensive care specific to a region, chronic condition, or co-occurring medical situations that span across physical and mental health. While number of providers may be reduced with a limited network, qualifying beneficiaries could receive higher quality coordinated care through a limited network arrangement.</p>	<p>(i) limited high-performing provider networks and medical/health homes;</p>	<p><b>Requirement Met</b></p> <p><b>July 2013</b> Managed Care Changes including implementing the Medallion Care Partnership System (MCSP)</p> <p><b>November 2013:</b> Addition of Kaiser Health Plan (limited network, medical home model)</p> <p><b>2014</b> Virginia Premier opened up a provider office in Roanoke</p>
<p><b>Quality Payment Incentives</b></p> <p>Virginia Medicaid MCOs must all attain National Committee on Quality Assurance (NCQA) accreditation, and are reviewed based on Consumer Assessment of <b>Healthcare</b> Providers and Systems (<b>CAHPS</b>) and Healthcare Effectiveness Data and Information Set (HEDIS) performance measures. Incorporating incentives and conversely, withholds for lower performance, will continue to encourage accountability within the Medicaid provider and MCO communities.</p>	<p>(ii) financial incentives for high quality outcomes and alternative payment methods,</p>	<p><b>Requirement Met</b></p> <p><b>July 2013 (for MCOs):</b>Program implemented to establish the baseline target</p> <p><b>July 2014:</b> Quality withholds begin</p>

Title & Description	Budget Language	Status
<p><b>Parameters to Test Innovative Pilots</b></p>	<p>Outline agreed upon parameters and metrics to provide maximum flexibility and expedited ability to develop and implement pilot programs to test innovative models that (i) leverage innovations and variations in regional delivery systems; (ii) link payment and reimbursement to quality and cost containment outcomes; or (iii) encourage innovations that improve service quality and yield cost savings to the Commonwealth.</p>	<p><b>Requirement Met</b></p> <ul style="list-style-type: none"> <li>•<b>Commonwealth Coordinated Care Program</b></li> <li>•<b>Medallion Contract Innovations</b></li> </ul>



# Phase 3 Reforms

**Budget Language:** In the third phase of reform, the Department of Medical Assistance Services shall seek reforms to include all remaining Medicaid populations and services including long-term care and home- and community- based waiver services into cost-effective, managed, and coordinated delivery systems. **The department shall begin designing the process and obtaining federal authority to transition all remaining Medicaid beneficiaries into a coordinated delivery system.** A report shall be provided to the 2014 General Assembly regarding the progress of designing and implementing such reforms.

# Phase 3 Reforms

Title	Status
<p><b>ID/DD Waiver Redesign</b></p>	<p><b>Requirement Met</b></p> <p><b>October 2013</b> - First Phase of DBHDS Study completed</p> <p><i>Underway</i></p> <ul style="list-style-type: none"> <li>• <b>July 2014</b> –ID/DD Waiver Renewal Due/ Redesign; second phase of DBHDS study to be complete</li> <li>• <b>July 2015</b>- Additional revisions to the ID/DD Waiver systems implemented as needed</li> </ul>
<p><b>All non-dual EDCD waiver enrollees in Managed Care for medical needs</b></p>	<p><b>Requirement Met</b></p> <p><b>Fall 2014:</b> Managed care implementation- DMAS moves non-dual EDCD waiver enrollees into one of 7 health plans for medical needs; Home and community-based waiver services remain out of managed care until 2016 and provided through fee-for-service</p>
<p><b>All inclusive Coordinated Care for LTC Beneficiaries (coordinated delivery for all LTC Services)</b></p>	<p><b>Requirement Met</b></p> <p><b>July 2016-</b> Complete the transition of all non-dual waiver recipients in the six home and community based care waivers and their community long term care services into coordinated care networks.</p>
<p><b>Complete statewide Commonwealth Coordinated Care, including children</b></p> <p><i>*This is the final phase of the Duals project, which cannot begin until the demo is over.</i></p>	<p><b>Requirement Met</b> (as Phase 1 duals process)</p> <p><b>July 2018-</b> After the Commonwealth Coordinated Care (Duals) demonstration is completed, expand statewide with all the remaining dual populations and all their medical, behavioral, and long term care services.</p>

# Reports on Phase 3 Reforms

Reports regarding Phase 3 reforms can be accessed online:

- HD6 (2014) *Implementing Medicaid Reform in Virginia* (this is the Phase 3 report)

[http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/HD62014/\\$file/HD6.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/HD62014/$file/HD6.pdf)

- RD63 (2014) *Report on the Progress of Implementing Care Coordination* (status update on all DMAS care coordination activities for our vulnerable populations)

[http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD632014/\\$file/RD63.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD632014/$file/RD63.pdf)

- RD60 (2014) *Development of the Commonwealth Coordinated Care Program* (as of November 2013)

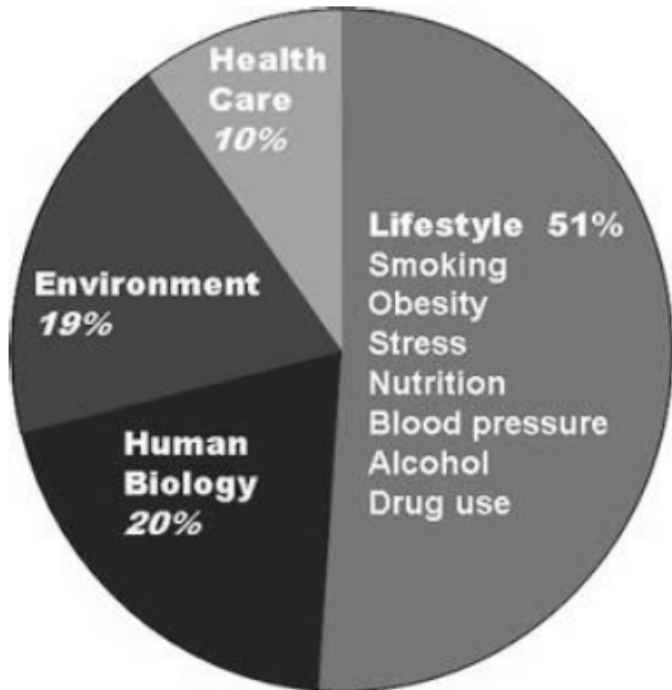
[http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD602014/\\$file/RD60.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD602014/$file/RD60.pdf)

# Things You've Heard About Virginia Medicaid

**Overheard**  
**Medicaid is worse than no coverage at all**

- Medicaid was designed to provide health coverage for low-income children and families who lack access to private coverage because of limited finances, health status, and/or severe physical, mental health, intellectual or developmental disabilities.

- Because of Medicaid's eligibility criteria and the strong correlation between poverty and poor health and disability, Medicaid beneficiaries are poorer and have poorer health profiles compared with privately insured and the insured.



## 2013 MCO Contract Enhancements

### Quality Incentive Program –

- Withhold an approved percentage of the monthly capitation payment from the MCO
- Funds will be used for the MCO's performance incentive awards
- Assessment of performance in quality of care and member experience; composite scores on CAHPS adult and child measures; performance in EQRO-conducted activities; and other measures determined by DMAS
- Awards proportionate to MCO benchmark achievements for each performance measure
- Implemented in a three-year phased-in schedule

Overheard  
**Medicaid just  
pays the bills  
and does not  
focus on  
quality  
healthcare**



**Overheard**  
**Medicaid**  
**Providers are**  
**inadequately**  
**reimbursed**



- In 2008, Virginia paid Medicaid primary care physicians on average 88% of what Medicare pays.
  - *2 year primary care bump (100% Medicare rate) 2013-2014 as a result of the ACA*
- DMAS does not have authority, absent General Assembly mandate, to adjust provider reimbursement rates.



## Overheard

**Medicaid is a  
“Top Tier”  
health plan**



- Medical services covered through Virginia’s Medicaid program are very similar to those offered through commercial health plans. Service limits offered is the biggest difference between the two.
- Medicaid is different because it covers long-term care, community mental health, and for children, EPSDT services. These are often not covered by commercial products.
- Medicaid benefit redesign will include making the Medical benefit even more “commercial like” in applying CMS approved service limits and patient engagement strategies.



# Overheard: Medicaid is Pervasive with Fraud...

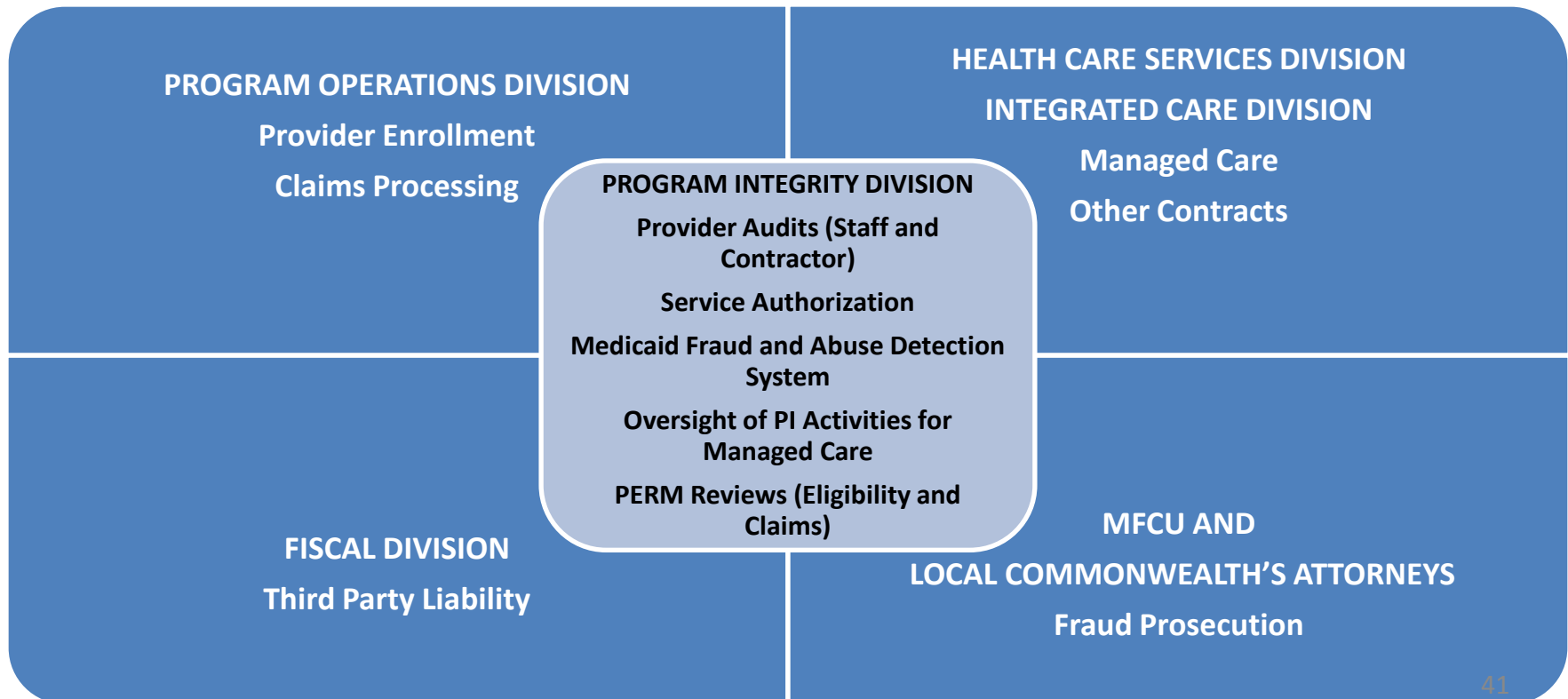
**The Reality:** Both DMAS and the Office of the Attorney General Fight Fraud, Waste, and Abuse on a Daily Basis.

# Program Integrity: Fraud, Waste, and Abuse Defined

- ❑ Improper payments may result from errors, waste, abuse, and fraud
- ❑ Errors and waste may result in unnecessary expenditures, but are not criminal activities
  - ❑ **Error:** The inadvertent product of mistakes and confusion
  - ❑ **Waste:** Inappropriate utilization of services and misuse of resources
  - ❑ **Abuse:** Action that is inconsistent with acceptable business and medical practices
  - ❑ **Fraud:** The intentional act of deception or misrepresentation
- ❑ DMAS program integrity efforts prevent and identify waste, abuse, and errors
- ❑ Potential provider fraud cases are referred to MFCU and DMAS handles potential recipient fraud cases

# Program Integrity at DMAS

- ❑ Medicaid program integrity efforts are not limited to a single division in DMAS, but involve the entire agency and coordination with a variety of outside partners
- ❑ In FY 2013 alone, DMAS prevented and identified over \$247 million in improper payments



# Medicaid Provider Fraud Prevention

- ❑ DMAS and MCFU joint activities include:
  - ❑ Pursuit of criminal fraud cases and civil cases
  - ❑ DMAS leads the PI/MFCU national technical advisory group
  - ❑ Program Integrity Collaborative
  - ❑ 2013 new Memorandum of Understanding
  
- ❑ DMAS and MFCU have been cited as a National Best Practices
  - ❑ Open Communications between DMAS and MFCU
  - ❑ Cross training between the two entities
  - ❑ Auditing with fraud prosecution in mind
  - ❑ Information sharing

# DMAS Administration



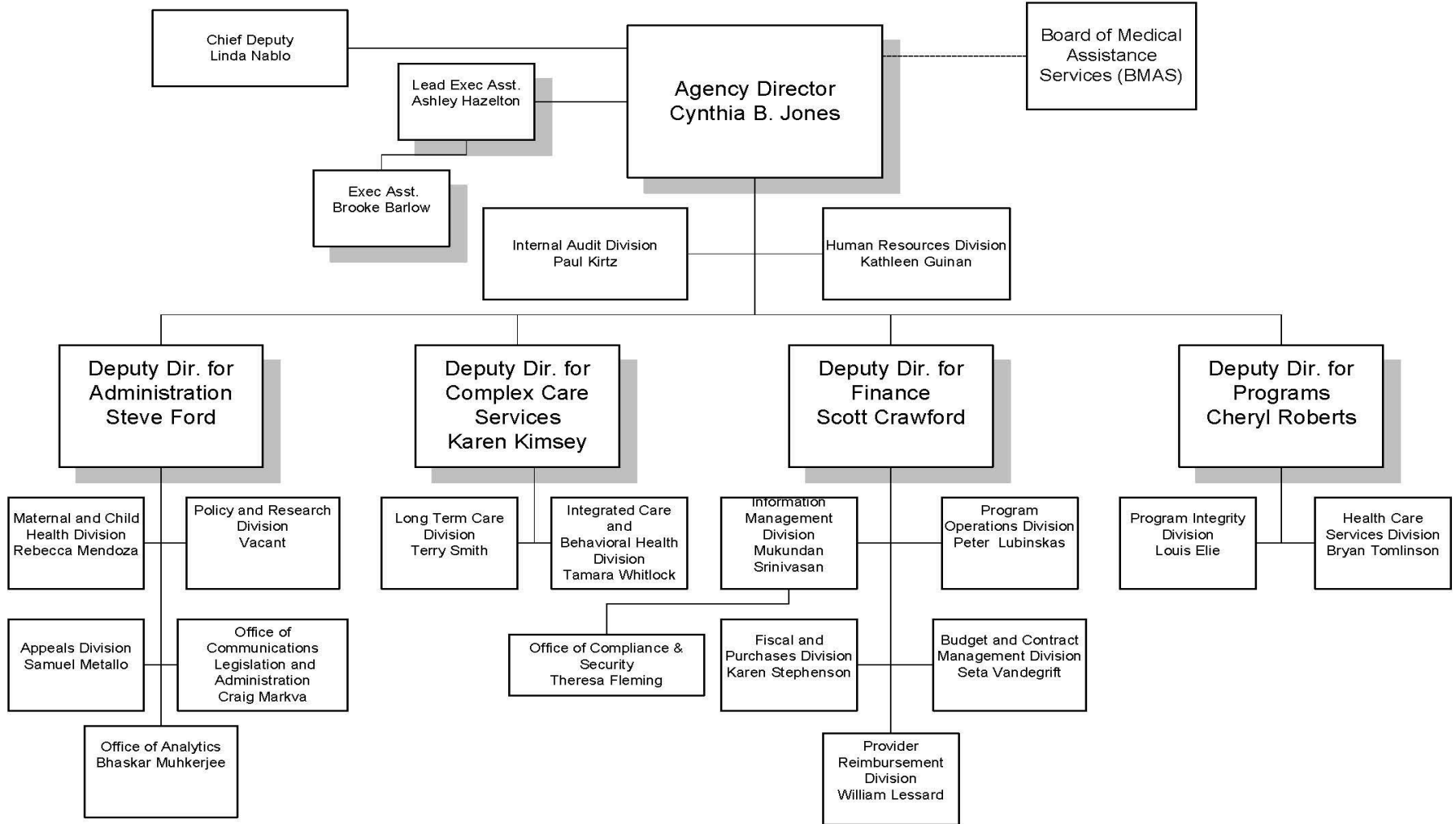


# DMAS MISSION STATEMENT

The mission of the Agency is to provide a system of high-quality and cost effective health care services to qualifying Virginians and their families.

The Department of Medical Assistance Services (DMAS) is one of twelve agencies within the Virginia Health and Human Resources Secretariat. DMAS is comprised of the Agency Director, Chief Deputy Director, four Deputy Directors and seventeen (17) separate divisions. Currently, there are 368 filled full-time funded classified positions, along with 89 wage staff and 35 consulting staff.

# Department of Medical Assistance Services Agency Organization Structure





# OFFICE OF THE DIRECTOR

- The Board of Medical Assistance Services
- Human Resources Division
- Internal Audit Division





# Board of Medical Assistance Services

## **§ 32.1-324. Board of Medical Assistance Services (from the Code of Virginia):**

- *A. There shall be a State Board of Medical Assistance Services hereinafter referred to as the Board. The Board shall consist of eleven residents of the Commonwealth, five of whom are health care providers and six of whom are not, all to be appointed by the Governor.  
The Board shall submit biennially a written report to the Governor and the General Assembly.*
- *B. The Director shall be the executive officer of the Board but shall not be a member thereof.*
- *C. The Director shall be vested with all the authority of the Board when it is not in session, subject to such rules and regulations as may be prescribed by the Board.*



# Human Resources Division

**Kathleen Guinan, Division Director**

- Employment/Recruitment
- Professional Development
- Benefits/Operations
- Compensation and Classification
- Reception and Visitor Control



# Human Resources Accomplishments

- ❖ Implementation of TAL
- ❖ Staffing: Entire cycle from hiring to retirement



# Internal Audit Division

**Paul Kirtz, Division Director**

- Protect the assets of the Agency
- Ensure financial statements and reports comply with established policies, generally accepted accounting principles, and/or other applicable rules and regulations both state and federal
- Ensure operational policies that promote the well-being of the Agency are effective and enforced to the end that operational efficiency and effectiveness are achieved
- Ensure adequate standards of business conduct are being observed
- Internal control over automated data processing activities is sufficient to reasonably assure efficient, accurate, and complete processing of Agency data with due regard to security
- Ensure all instances of fraud, waste and abuse discovered through the audit process are fully investigated and reported on a timely basis
- Auditing DMAS' compliance with the provisions of the privacy and security rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA)



# Internal Audit Accomplishments

- ❖ Completed federal mandated audit of DMAS IT
- ❖ Received highest rating on independent quality assurance review of IA Division



# Office of Data Analytics

**Bhaskar Mukherjee, Division Director**

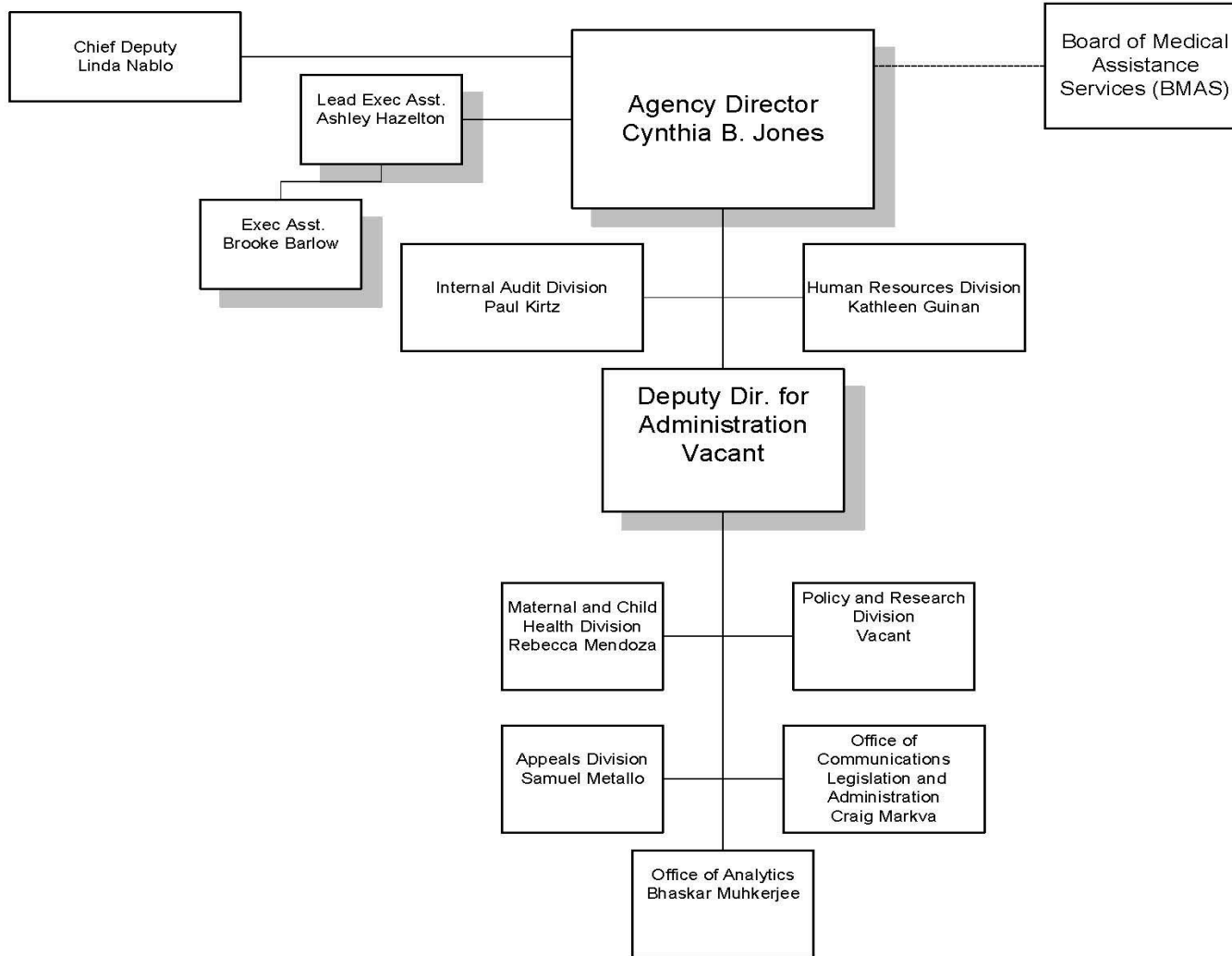
- Structure analytics environment to assure data integrity, data consistency, and well documented research
- Champion big data and share data with external entities
- Present findings in a format that is informative, accurate, and generalized for DMAS decision making to support overall mission
- Provide insight based quality measures to assess effectiveness of current and new programs
- Provide support for mandatory reports
- Support other divisions to create benchmarks for their objectives and analyze them to improve quality of services



# Linda Nablo, Chief Deputy Director

- Second in Charge
- Closing the Coverage Gap
  - ✓ Eligibility system
  - ✓ Outreach and enrollment/Fast Track
- Organizational Changes/Staff Development
- Temporary Supervision effective June 2
  - ✓ Policy
  - ✓ Maternal and Child Health
  - ✓ Appeals
  - ✓ Office of Communications and Legislative Affairs

# Department of Medical Assistance Services Deputy Director for Administration







# Maternal & Child Health Division

*Rebecca Mendoza, Division Director*

- Marketing and Outreach
- Call center and Operations
- Maternal & Child Health Specialized Services
  - ✓ Early and Periodic Screening, Diagnostic & Treatment (EPSDT) Program
  - ✓ School-based services
  - ✓ Family Planning Waiver
  - ✓ Assuring Better Child Health and Development (ABCD)



# Maternal & Child Health Accomplishments

- ❖ Cover Virginia Call Center
- ❖ CHIP Waiting Period Elimination



# Appeals Division

Sam Metallo, Division Director

- Client Appeals
- Provider Appeals



# Appeals Division Accomplishments

- ❖ Processed 3,708 client appeals with a timeliness compliance rate of 99.4%
- ❖ Processed 3,725 provider appeals with a timeliness compliance rate of 100%



# Policy & Research Division

*Division Director, Vacant*

- Eligibility
- Research, Policy Analysis, Policy and Program Development
- Regulatory Development and Review



# Policy & Research Accomplishments

- ❖ Legwork for Commonwealth Coordinated Care program; evaluation for CCC
- ❖ Research on Expansion Administration (Alternative Benefit Package, FMAP, eligibility)
- ❖ Implementation of ACA state plan amendments, regulations



# Office of Communication & Legislative Affairs (OCLA)

**Craig Markva, Division Director**

- Handles Constituent responses for the Agency, the Office of the Secretary of Health & Human Resources, as well as the Governor's Office
- Coordinates and tracks legislation affecting the Agency
- Coordinates and handles press calls and media interviews
- Freedom of Information Act (FOIA) Requests
- Project Manager and agency liaison to property management group



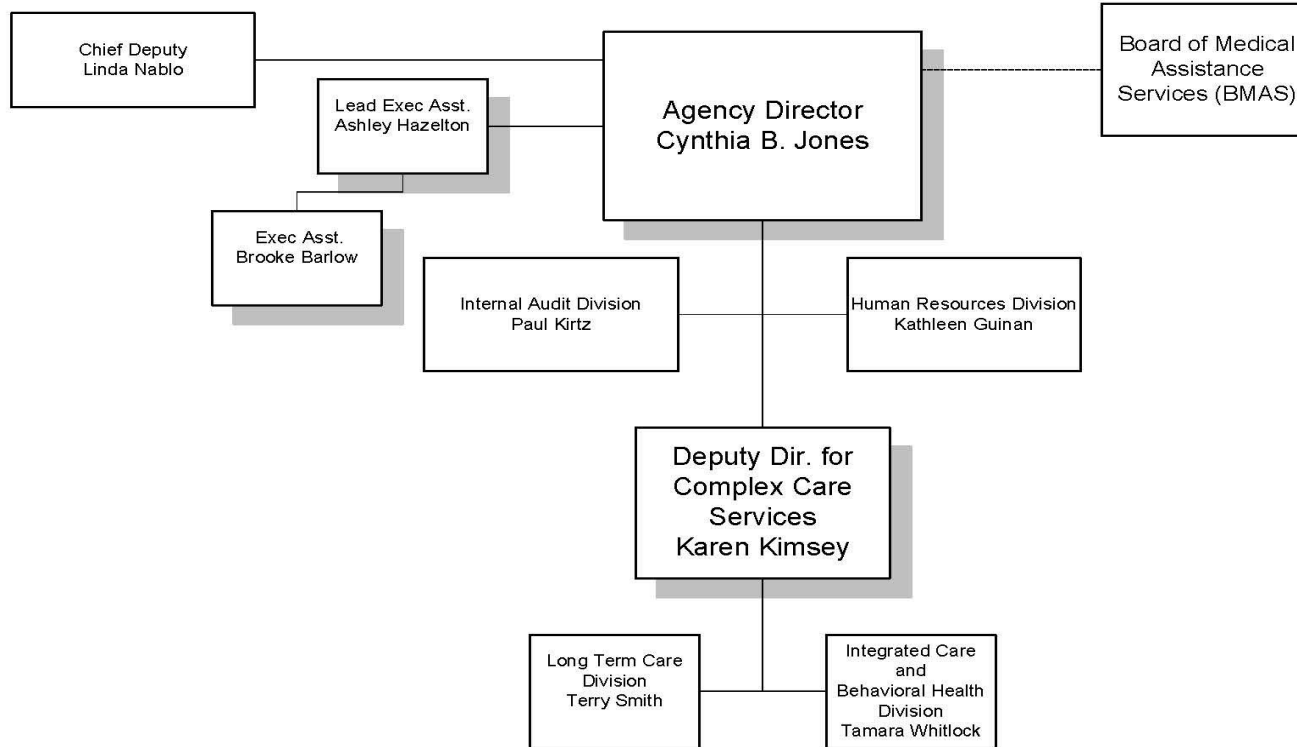
# OCLA Accomplishments

- ❖ Led communication on new Medicaid financial and eligibility efforts
- ❖ Successful handling of 2014 General Assembly
- ❖ 6<sup>th</sup> floor renovation!



6/11/14

## Department of Medical Assistance Services Deputy Director for Complex Care Services





# Long Term Care Division

*Terry Smith, Division Director*

- Care Management Programs
- Quality Management Review
- Long-Term Care Policy Support & Quality Initiatives



# Long Term Care Division Accomplishments

- ❖ PACE expansion to 14; 4 more under development
- ❖ Involvement in Disability Systems Reform efforts



# Integrated Care & Behavioral Health Services (ICBHS) Division

*Tammy Whitlock, Division Director*

- Office of Coordinated Care
- Office of Behavioral Health

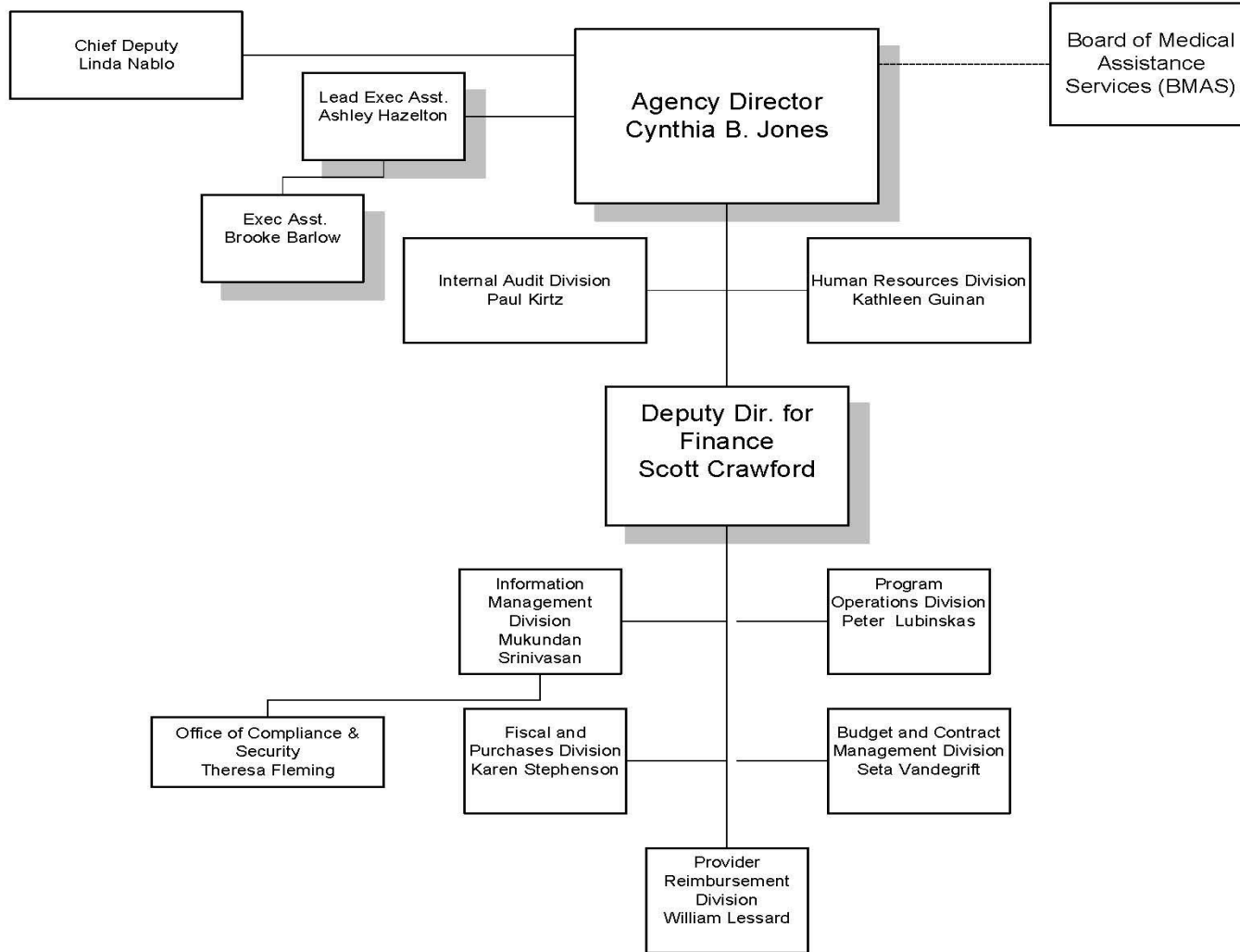


# ICBHS Accomplishments

- ❖ Commonwealth Coordinated Care Program
- ❖ Behavioral Health Services Administrator

6/11/14

## Department of Medical Assistance Services Deputy Director for Finance





# Information Management (IM) Division

**Mukundan Srinivasan, Division Director**

- Systems Development
- Information Technology Services
- Office of Compliance & Security



# Information Management Accomplishments

- ❖ MMIS changes for ACA population
- ❖ Project management support for CCC, BHSA
- ❖ Restart of MMIS “release” process to support all divisions
- ❖ Moved Office of Compliance and Security





# Fiscal & Purchases Division

*Karen Stephenson, Division Director*

- Financial Reporting
- Disbursement
- Accounts Receivable
- Grant Management
- Cash Management
- Third Party Liability
- Purchasing & Support



# Fiscal & Purchases Accomplishments

- ❖ Improvements to the accounts receivable process
- ❖ Automation of a number of processes, resulting in more efficiency and reduced errors
- ❖ Support for agency response to several outside audits



# Program Operations Division

*Peter Lubinkas, Division Director*

- Medical Support
- Payment Processing
- Health Insurance Premium Payment (HIPP)
- Customer Services
- Provider Enrollment/Training
- Operational Issues with Eligibility & Enrollment
- Non-emergency Transportation



# Program Operations Accomplishments

- ❖ Provider Screening Regulation
- ❖ Electronic Health Record Incentive Program



# Budget & Contract Management Division

*Seta Vandegrift, Division Director*

- Forecasting & Planning Unit
- Budget
- Contract Management



# Budget & Contract Management Division Accomplishments

- ❖ Development of cost/savings estimates related to ACA, Expansion, and Medicaid reforms
- ❖ Implemented improvements to the contract management function
- ❖ Support for financial management of projects related to implementing new eligibility and enrollment system



# Provider Reimbursement Division

**Bill Lessard, Division Director**

- Fee-for-Service (FFS) Rate Setting Unit
- Managed Care Rate Setting
- Cost Settlement and Audit



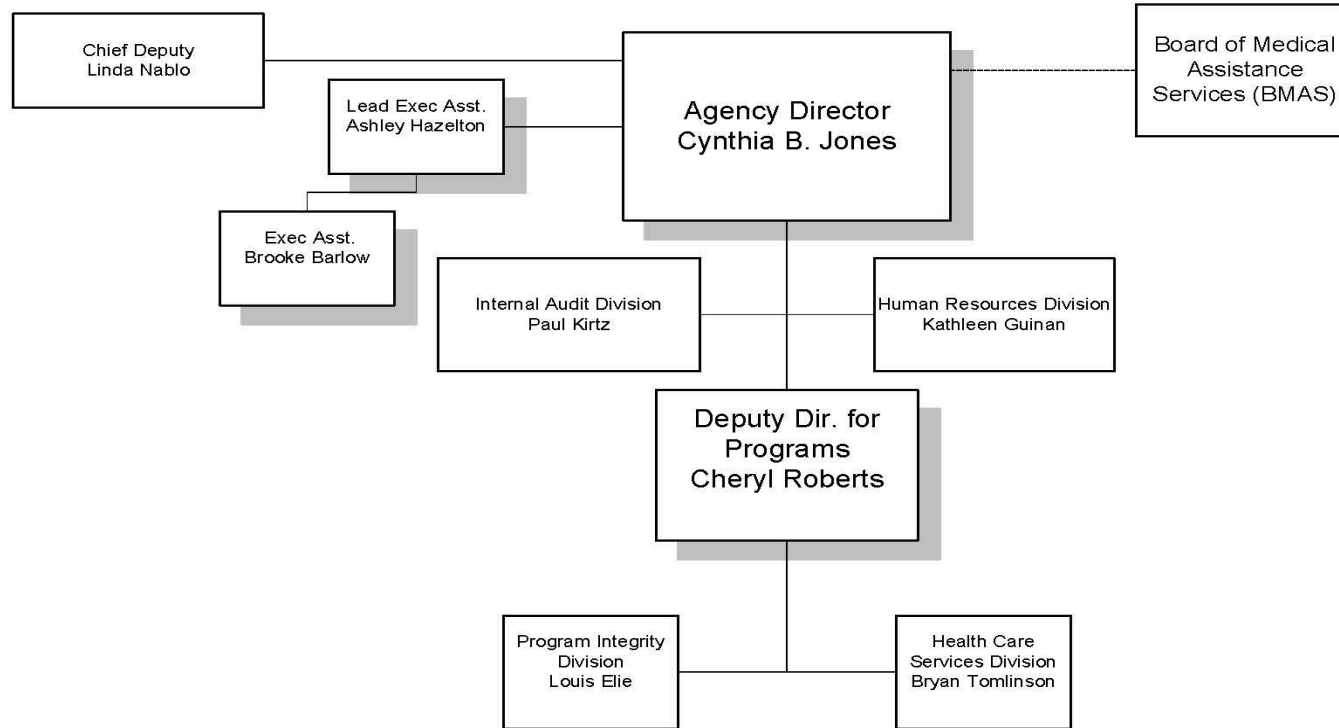
# Provider Reimbursement Division Accomplishments

- ❖ Rate setting: New expansion population, Duals, waiver populations, behavioral health, Medallion 3.0
- ❖ New methodologies for nursing homes and hospitals



6/11/14

## Department of Medical Assistance Services Deputy Director for Programs





# Program Integrity Division

Louis Elie, Division Director

- Recipient Monitoring
- Provider Review
- Recipient Audit
- Prior Authorization and Utilization Review (PAUR)



# Program Integrity Division Accomplishments

- ❖ Contracted with a vendor to work with DSS and DMAS to improve PERM rate
- ❖ Worked with LTC on new respite prior authorization process
- ❖ Worked with MCFU on several successful behavioral health cases
- ❖ PARIS project, which identifies recipients enrolled in other states



# Health Care Services Division

**Bryan Tomlinson, Division Director**

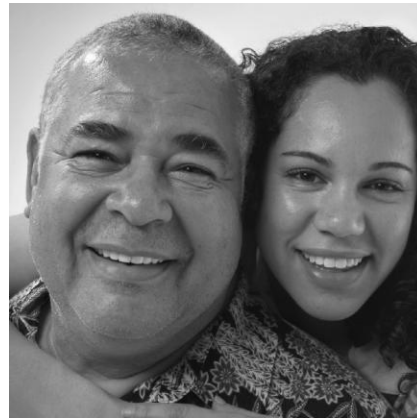
- Managed Care
- Pharmacy
- Smiles for Children Dental Program
- Systems and Reporting



# Health Care Services Division Accomplishments

- ❖ Expansion of Managed Care to Foster Care Children
- ❖ Revamp of the Managed Care Contract, Medallion 3.0
- ❖ Pharmacy Improvements: MCO rebates, Psychotropic drug utilization for children, generic drug watch
- ❖ Dental program is one of the top 5 in country
- ❖ Expedited Enrollment

# Closing the Coverage Gap in Virginia



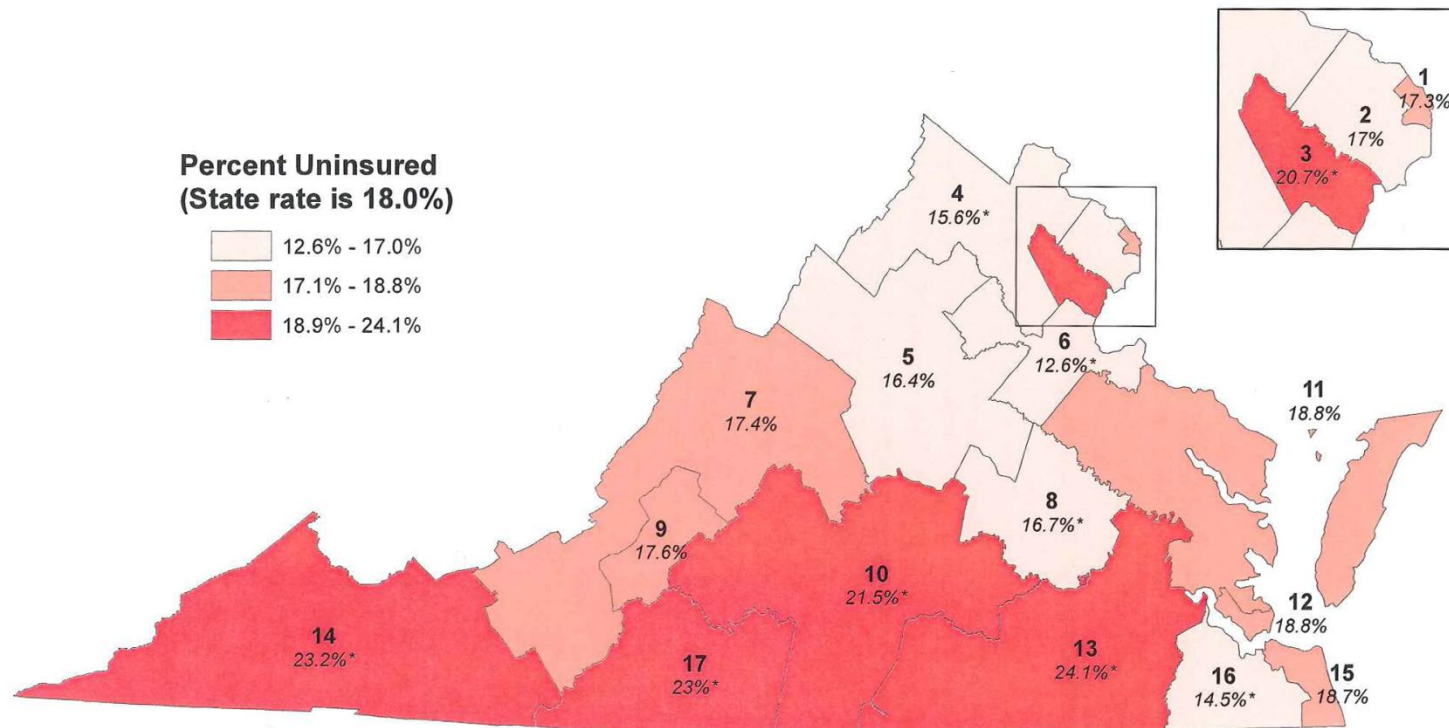
# Closing the Coverage Gap

Insurance Status in Virginia	Closing the Coverage Gap
<u>Insured:</u>	
Medicare, 65 and over (13%)	1,073,853
Current Medicaid Enrollment (FY 2014)	1,147,800
All other insured	5,008,752
Uninsured 64 and under	1,030,000
<b><u>TOTAL Population</u></b>	<b><u>8,260,405</u></b>
<u>Uninsured Breakdown:</u>	
Uninsured (above)	1,030,000
Likely eligible for private exchange	470,700
<b>Eligible for Coverage Gap (estimated)</b>	<b>400,000</b>

(Remaining uninsured individuals may not be eligible for coverage due to a number of reasons such as immigration status)

# Where are Virginia's Uninsured?

Uninsured Rate Among Adults (19-64) in Virginia by Area<sup>1</sup>, 2010



Source: Urban Institute, February 2012. Based on the 2010 American Community Survey (ACS) data from the Integrated Public Use Microdata Series (IPUMS) of the Minnesota Population Center.

<sup>1</sup> Shaded areas represent regions of Virginia which are defined in terms of counties or a combination of counties (see Table 13).

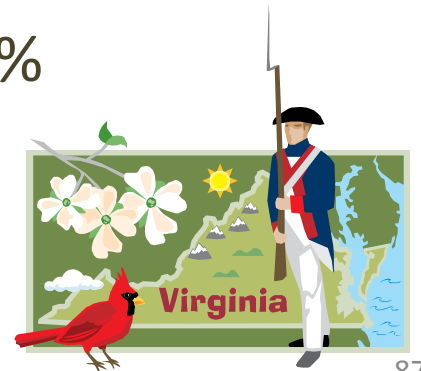
Note: Estimates reflect additional Urban Institute adjustments for the underreporting of Medicaid/CHIP and the overreporting of private nongroup coverage (See Lynch et al, 2011). Coverage estimates were developed under a grant from the Robert Wood Johnson Foundation.

\* indicates that the region percentage is statistically different from the percentage for the areas in the rest of state at the .05 level.

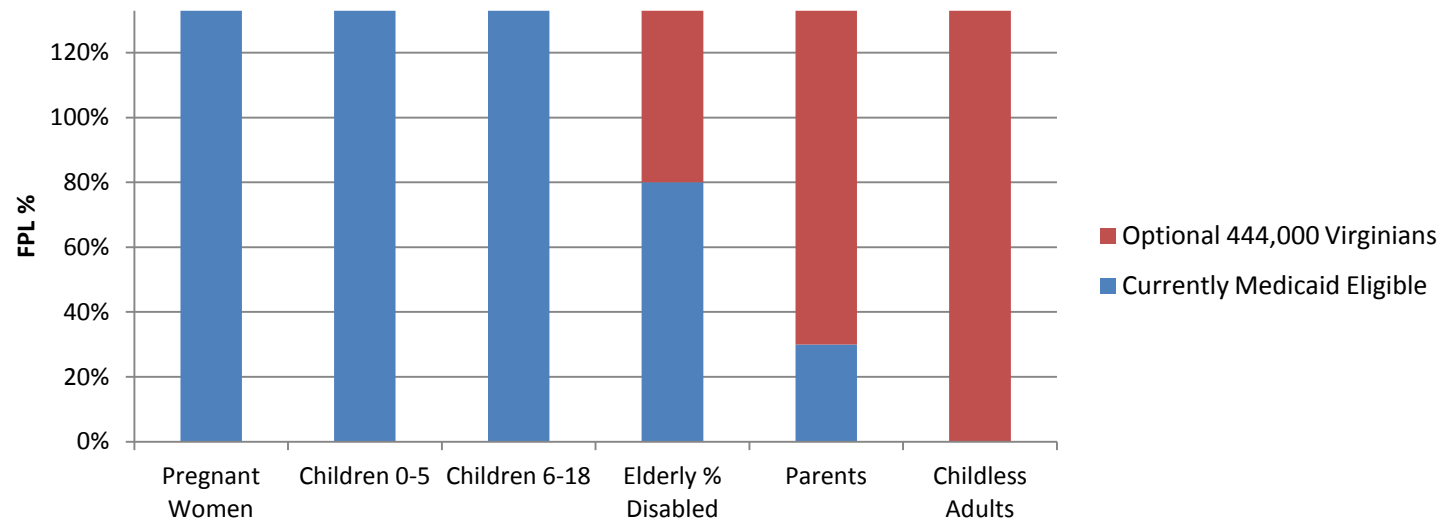


# Who are Virginia's Uninsured?

- The vast majority (71.3%) are part of working families
- The majority (80%) are US citizens
- Most of the uninsured (46%) are White, non-Hispanic
  - Black/ African American make up 24% and Hispanic 20% of uninsured



# Changes to Eligibility



The ACA gives Virginia the option to receive federal funding to cover over 400,000 eligible individuals with incomes under 133% FPL.

# Close the Coverage Gap & Keep Our Money at Home

Today, there is a health coverage gap in Virginia, and it is costing Commonwealth taxpayers millions.

Thankfully, we have the opportunity to reinvest that money in our families and businesses while providing affordable health insurance to Virginians who need it. We cannot stop sending dollars to Washington, but we can stop leaving them there.



Save Virginia's businesses over  
**\$1 BILLION**  
per year and create **30,000 NEW JOBS**  
in the Commonwealth.



Provide affordable  
health insurance to  
**400,000**  
hard-working individuals  
and families.

Reinvest  
**\$5 MILLION**  
per day of Virginian's federal tax  
dollars here at home.



Protect our hospitals from an expected  
**\$400 MILLION**  
shortfall by covering care for the uninsured.

