VADC HFMA Virginia Legislative Update March 18, 2022

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VIRGINIA HOSPITAL & HEALTHCARE ASSOCIATION

R. Brent Rawlings, SVP and General Counsel
Jay Andrews, VP of Financial Policy

Overview of Topics

- COVID-19 Update
- Governor Youngkin – Agenda and Administration
- 2022 General Assembly Review
- Provider Relief Fund and ARPA Update
- TDO Tracking
- Medicaid
- Medicare DGME Deadline
- Transparency and No Surprises Act
- Question and Answers

COVID-19 in Virginia: Summary

Cases, Hospitalizations and Deaths

Total Cases*	Total Hospital Admissions**	Total Deaths
1,656,187	48,188	19,356
(New Cases: 1,294)^		

Confirmed†	Probable†	Confirmed†	Probable†	Confirmed†	Probable†
1,182,581	473,606	45,326	2,862	16,075	3,281

* Includes both people with a positive test (Confirmed), and symptomatic with a known exposure to COVID-19 (Probable).
** Hospitalization of a case is captured at the time VDH performs case investigation. This underrepresents the total number of hospitalizations in Virginia.
^New cases represent the number of confirmed and probable cases reported to VDH in the past 24 hours.
† VDH adopted the updated CDC COVID-19 confirmed and probable surveillance case definitions on August 27, 2020. Found here: https://wwwn.cdc.gov/nndss/conditions/coronavirus-disease-2019-covid-19/case-definition/2020/08/05/
Source: Cases - Virginia Electronic Disease Surveillance System (VEDSS), data entered by 5:00 PM the prior day.

Outbreaks

Total Outbreaks*	Outbreak Associated Cases
7,194	120,393

* At least two (2) lab confirmed cases are required to classify an outbreak.

Testing (PCR Only)

Testing Encounters PCR Only*	Current 7-Day Positivity Rate PCR Only**
12,972,259	4.2%

* PCR" refers to "Reverse transcriptase polymerase chain reaction laboratory testing."
** Lab reports may not have been received yet. Percent positivity is not calculated for days with incomplete data.

Multisystem Inflammatory Syndrome in Children

Total Cases*	Total Deaths
163	1

*Cases defined by CDC HAN case definition: https://emergency.cdc.gov/han/2020/han00432.asp

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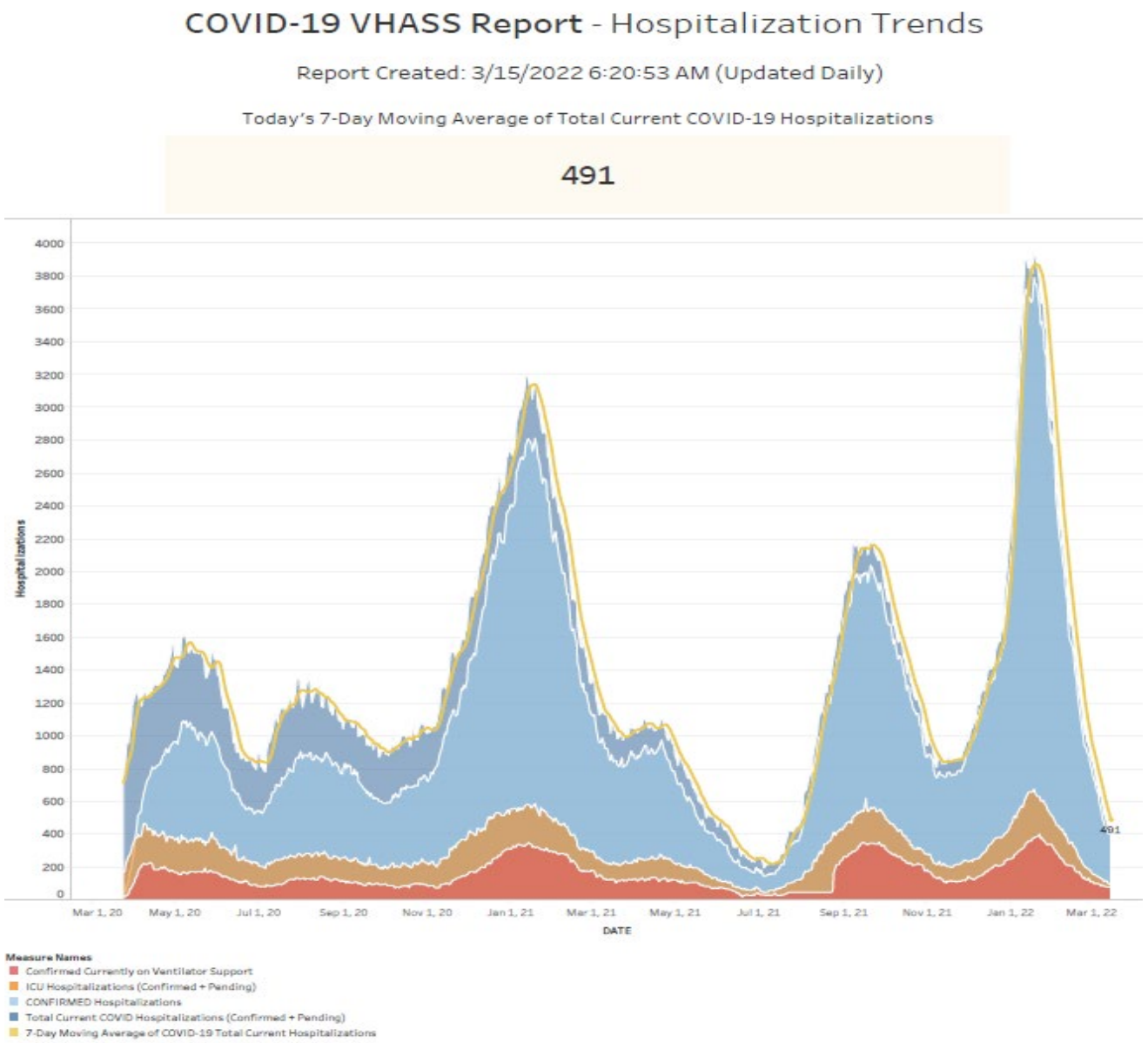
COVID-19 - Hospitalizations



Virginia Vaccination Rates by Age Groups

COVID-19 in Virginia: Vaccine Demographics

Dashboard Updated: 3/15/2022

People Vaccinated with at Least One Dose	People Fully Vaccinated	People Vaccinated with Booster/ Third Dose
6,967,676	6,210,565	2,850,666

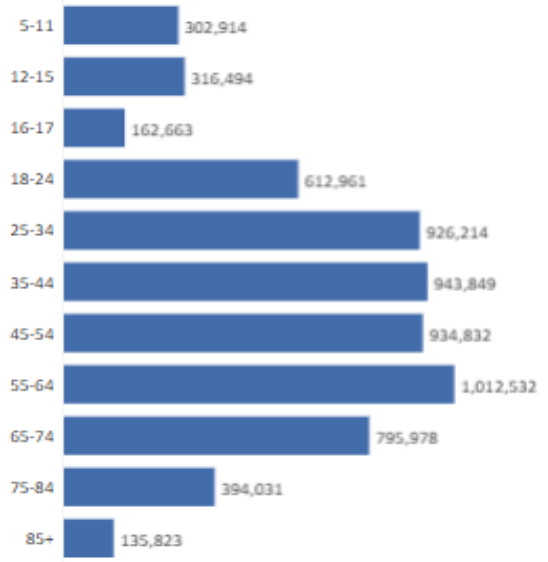
Federal doses administered are included in the number of People Vaccinated with at Least One Dose (429,385), People Fully Vaccinated (369,334) , 5+, 12+, 18+ KPI but are not included in the other demographic groups below.

Locality Name (Includes Out-of-State and Not Reported Options): (All)

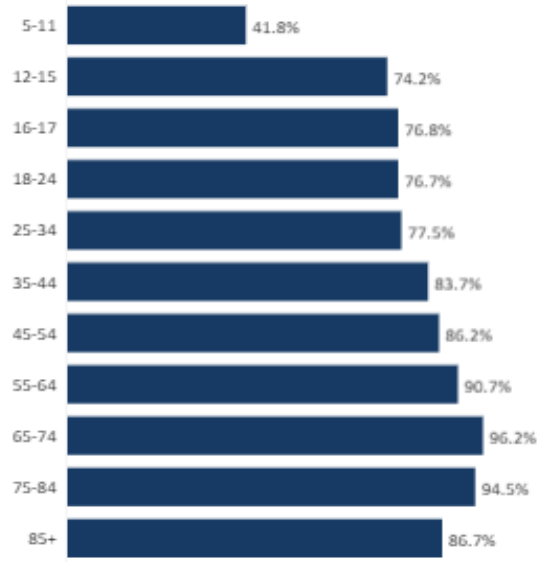
Vaccination Status: At Least One Dose

Age Group Type: Vaccine

Vaccination Count By Age Group



Percent of the Population Vaccinated with At Least One Dose - By Age Group



Not Reported: 429,385

Ages : 5-17	Ages : 5+	Ages : 12+	Ages : 18+	Ages : 65+
People Vaccinated: 782,071	People Vaccinated: 6,967,664	People Vaccinated: 6,664,750	People Vaccinated: 6,185,593	People Vaccinated: 1,325,820
% Vaccinated: 57.4%	% Vaccinated: 86.2%	% Vaccinated: 90.5%	% Vaccinated: 92.0%	% Vaccinated: 94.6%

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COVID-19 Cases by Vaccination Status

VIRGINIA'S HEALTH IS IN OUR HANDS. Do your part, stop the spread.

COVID-19 in Virginia: Case Rates by Vaccination Status

VDH VIRGINIA DEPARTMENT OF HEALTH

Dashboard Updated: 3/4/2022 Data through: 2/26/2022
Updated Weekly on Fridays

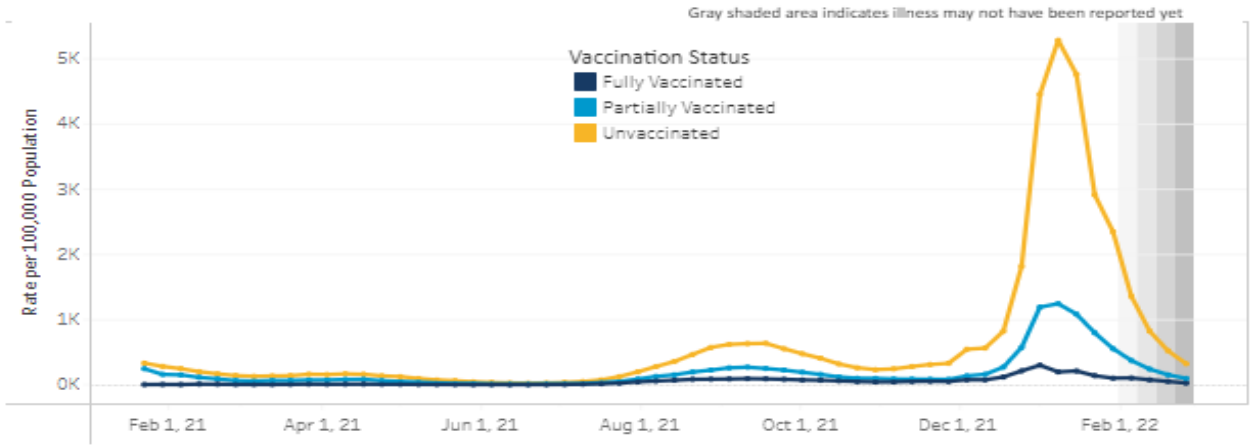
Rates by Vaccination Status

Select Metric: Infections | Week Ending Date: (All)

Rate of Infections per 100,000*, 1/17/2021 - 2/26/2022

Fully Vaccinated** People	Partially Vaccinated† People	Unvaccinated People
2,700	5,947	11,522

Between 1/17/2021 and 2/26/2022, unvaccinated people developed COVID-19 at a rate **4.3 times** that of fully vaccinated people and **1.9 times** that of partially vaccinated people.‡



Vaccine Breakthrough Cases

As of 2/26/2022, 6,175,091 Virginians have been fully vaccinated against COVID-19. Of these people, **2.7%** have developed COVID-19, **0.067%** have been hospitalized, and **0.0273%** have died.

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Governor Youngkin– Medical Advisory Team

Will provide updates on the pandemic and advice on how to address related challenges

- Chair – Dr. Marty Makary – John Hopkins
- Nancy Agee – President and CEO - Carilion
- Kathy Gorman – Executive VP of Patient Care Services - Children's National Medical Center
- Alan Levine – Executive Chairman and President - Ballad Health
- Dr. Bogdan Neughebauer – VP of Medical Affairs - Sentara Leigh
- Dr. Anand Shah – Former FDA Deputy Commissioner for Medical and Scientific Affairs

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Governor Youngkin – Session Priorities

- Doubling Virginia's standard deduction to $9,000 for single filers and $18,000 for joint filers.
- One-time rebate of $300 for individuals and $600 for families.
- Excluding a portion of veteran retirement income from state income taxes.
- Increase State funding to aid localities with police departments.
- Ensure disabled Virginians have access to the care they need, by fully funding an additional 1,200 developmental disability waiver slots.
- Repeal temporary COVID-19 workplace restrictions will help Virginia stay open for businesses and make our economy stronger.
- Creating academic opportunities by providing $150 million for lab schools.
- Supporting emergency funding for campus security at Virginia's HBCUs.
- Supporting the Virginia Talent Opportunity Partnership and Innovative Internship Fund.
- Supporting the Virginia Business Ready Sites Program.

Governor Younkgin - Appointments

Cabinet Secretaries

Kay James – Secretary of the Commonwealth
Margaret "Lyn" McDermid Secretary of Administration
Matthew Lohr – Secretary of Agriculture and Forestry
Caren Merrick – Secretary of Commerce and Trade
Aimee Rogstad Guidera – Secretary of Education
Stephen E. Cummings – Secretary of Finance
John Littel – Secretary of Health and Human Resources
George "Bryan" Slater – Secretary of Labor
TBD – Secretary of Natural and Historic Resources
Sheriff Robert “Bob” Mosier – Secretary of Public Safety and Homeland Security
Sheppard Miller, III – Secretary of Transportation
Craig Crenshaw – Secretary of Veterans and Defense Affairs

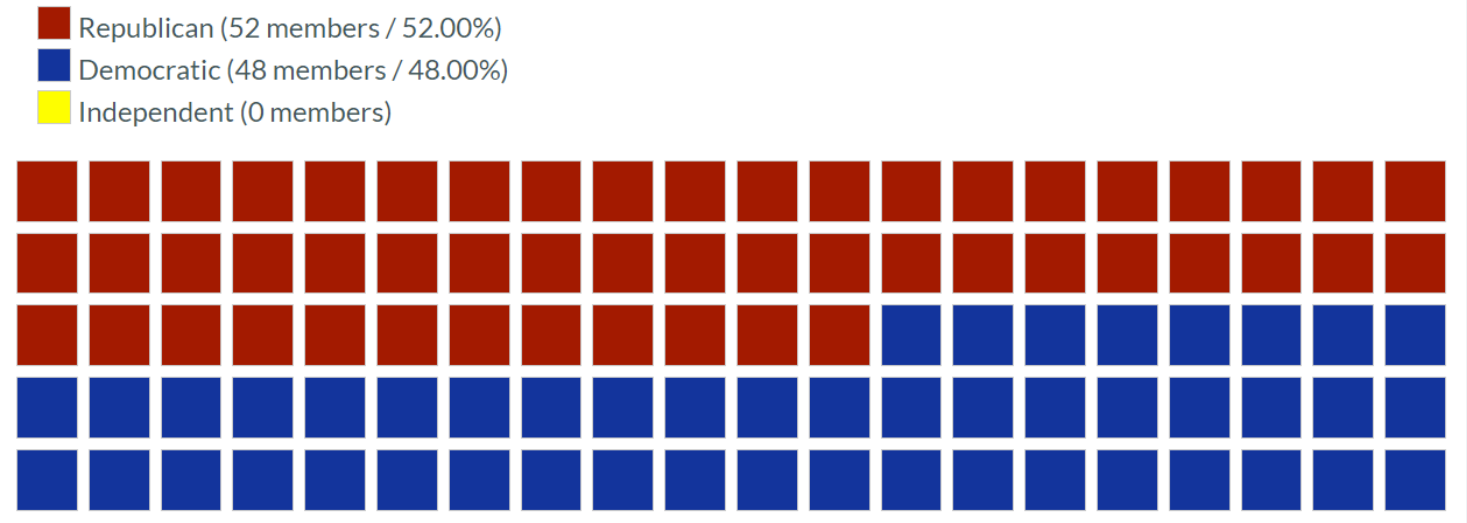
Agency Heads

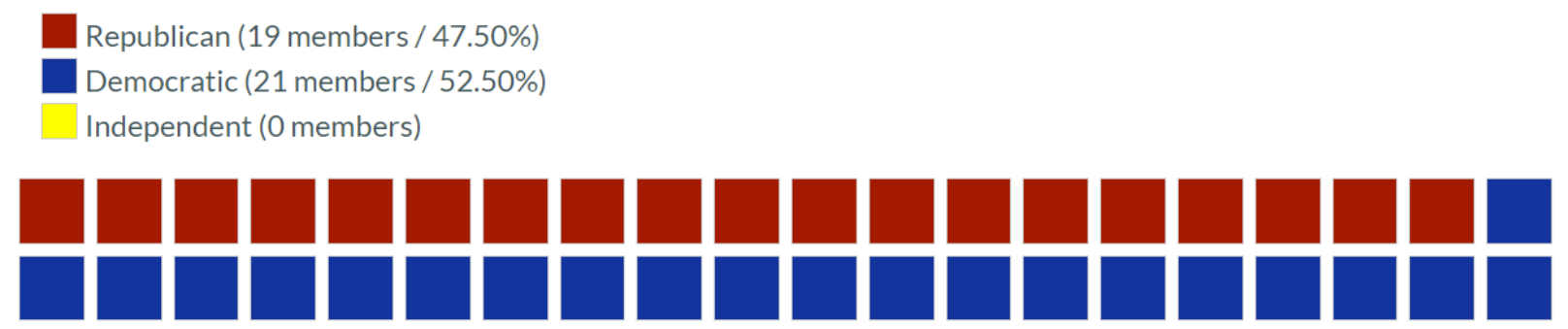
Colin M. Greene MD, MPH, State Health Commissioner (Interim)
Karen Kimsey, Director DMAS (Interim)
David Brown, Director DHP (Interim)

General Assembly - Composition

HOUSE

4-Seat **Republican** Majority





SENATE

2-Seat **Democrat** Majority

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Redistricting - Update

- The Virginia Supreme Court unanimously approved the new redistricting maps
  - ½ of Senators are either paired or tripled in districts with other sitting Senators (including 18 double-ups and two triple-ups)
  - 11 new Senate districts without current incumbents
  - 42 out of the 100 Delegates are paired or tripled in districts with other sitting Delegates (including 40 double-ups and two triple-ups)
  - 23 new state House districts without current incumbents
  - 3 members of Congress were drawn out of their current districts, leaving no incumbents
- Maps will be used for the midterm election in November 2021 and next general election in 2023
- Pending litigation to determine whether House must run again in 2022 under the new districts

2022 General Assembly Review

COVID-19 Regulatory Flexibility – Out-of-State Licensure

HB1187 (Helmer)/SB317 (Favola) allows a provider licensed in another state who has submitted an application for licensure to the appropriate health regulatory board to temporarily practice in a hospital, nursing home, or dialysis facility for 90 days pending licensure; directs the DHP to pursue reciprocity agreements w/ jurisdictions that surround Va. to streamline the application process in order to facilitate the practice of medicine

HB745 (Bell) provides that a person who has graduated from an accredited respiratory therapy education program may practice w/ the title "Respiratory Therapist, License Applicant" or "RT-Applicant" until has received a failing score on any exam required by the Board for licensure or 6 months from graduation, whichever occurs sooner

2022 General Assembly Review

COVID-19 Regulatory Flexibility – Out-of-State Licensure/Telehealth

HB264 (Head)/SB369 (Stuart) llows a practitioner of a profession regulated by the Board of Medicine who is licensed in another state and who is in good standing to engage in the practice of that profession in the Va. w/ a patient located in the Va. when (i) providing continuity of care through the use of telemedicine services and (ii) the practitioner has previously established a practitioner-patient relationship w/ the patient and the practitioner has performed an in-person examination of the patient within the previous 12 months. The bill also provides that in an emergency the Boards may waive (a) the requirement for submission of a fee for renewal or reinstatement of a license and (b) the requirement for submission of evidence that a practitioner whose license was allowed to lapse for failure to meet professional activity requirements has satisfied such requirements within the 4-year period immediately prior to the application for renewal or reinstatement of such license.

HB537 (Batten) allows certain practitioners of professions who provide behavioral health services and who are licensed in another state and in good standing to engage in the practice of that profession in Va. w/ a patient located in Va. when (i) providing continuity of care through the use of telemedicine services and (ii) the practitioner has previously established practitioner-patient relationship w/ the patient; provides that a practitioner who provides behavioral health services to a patient located in Va. through use of telemedicine services may provide services for a period of no more than 1 year from the date on which the practitioner began providing the services to the patient

2022 General Assembly Review

COVID-19 Regulatory Flexibility – Bed Capacity and Vaccinations

HB900 (Avoli)/SB130 (Favola) creates exemption from the requirement for a COPN or a license for the temp. addition of beds located in a facility or temp. structure or satellite location by a hospital or nursing home in a PHE for the duration of the emergency order plus 30 days

HB939 (Robinson)/SB647 (Dunnavant) allows the Commissioner of Health to authorize persons to administer vaccines as an approved countermeasure in accordance with protocols established by the Commissioner of Health when the Board has issued an emergency order for communicable diseases and other dangers and provides immunity to any such persons administering the vaccine

2022 General Assembly Review

COVID-19 – Provider Immunity for Disaster Response

SB148 (Norment) clarifies immunity for providers responding to a disaster to include actions or omissions taken by the provider as directed by any order of public health in response to such disaster when a local emergency, state of emergency, or public health emergency has been declared

2022 General Assembly Review

COVID-19 – Workers' Compensation Presumption of Compensability

HB932 (Robinson) extends the presumption of compensability for COVID causing the death or disability of a provider from December 31, 2021, to December 31, 2022

2022 General Assembly Review

Telehealth

SB426 (Dunnavant) directs DMAS to amend the state plan for medical assistance services to pay for medical assistance for remote patient monitoring services provided via telemedicine (i) for patients who have experienced an acute health condition and for whom the use of remote patient monitoring may prevent readmission to a hospital or emergency department, (ii) for patient-initiated asynchronous consultations, and (iii) for provider-to-provider consultations

SB663 (Stanley) directs Board to amend state plan to include payment of the originating site fee to EMS agencies for facilitating telehealth with a distant site provider delivered to a Medicaid member

2022 General Assembly Review

Behavioral Health

SB202 (Newman) directs Sec of HHR and Sec of Public Safety to study options to increase use of alternative custody arrangements for people subject to an ECO or TDO and report findings and recs to GOV and House Chair of Approps, HWI and Senate E&H and FIN by October 1, 2022

HB684 (Hope)/SB119 (Hanger) requires CSBs to disclose medical records and ancillary info obtained during an evaluation to determine whether a person meets the criteria for involuntary TDO to a health care provider providing services to such person in a hospital emergency department

SB268 (Favola) provides that, in cases in which transport of a person subject to an ECO is ordered to be provided by an alternative transport provider, the primary law-enforcement agency that executes the order may transfer custody to the alternative transport provider upon execution of the order, and the alternative transport provider will maintain custody until an evaluation is conducted and custody is transferred pursuant to a TDO or the person is released upon determination the person doesn't meet the criteria for TDO or custody is transferred to the CSB or its designee that is responsible for conducting the evaluation

2022 General Assembly Review

Hospital Regulatory Items

HB910 (Orrock) requires every hospital in Va. w/ an ED to report monthly to VDH the total number of visits to the hospital's ED and the total number of visits to the ED by severity code

HB235 (Orrock) establishes a work group to provide recommendations regarding regulations requiring hospitals to develop protocols for connecting patients receiving rehabilitation services to necessary follow-up care, including recommendations for requirements related to (i) providing instructions for follow-up care, (ii) making referrals for any such follow-up care, and (iii) providing information necessary for the patient to schedule initial appointments for such follow-up care, including the name of and contact information for each provider and information regarding any scheduled appointments

HB1107 (McQuinn) directs Board to develop recommendations for protocols for hospitals that provide obstetrical services for (i) admission or transfer of any pregnant woman who presents herself while in labor or while experiencing a perinatal emergency and (ii) direct readmission, if appropriate, to the hospital of any patient who (a) received obstetrical services from the hospital, (b) experiences postpartum complications requiring immediate medical care, and (c) is referred to the hospital by the patient's health care provider

2022 General Assembly Review

Medical Records Requests

HB1359 (Byron) provides that an authorization for the disclosure of health records shall remain in effect until revoked; provides that except as expressly limited in an authorization for the release of health records pursuant to this section, such authorization is deemed to include authorization for the release of all health records maintained by the health care provider; provides that an authorization, unless otherwise expressly limited in the authorization, is deemed to include authorization for the person named in the authorization to assist the person in accessing health care services, including scheduling appointments; provides every health care provider shall allow a spouse, parent, adult child, adult sibling, or other person identified by a patient to make an appointment for medical services on behalf of such patient, regardless of whether such patient has executed an authorization

HB916 (Robinson) requires every hospital and provider that makes patients' health records available on a secure website will make all minor's health records available to the patient's parent on the website

2022 General Assembly Review

Health Professions – Practice Authority

HB896 (Adams) eliminates authority of a physician on a patient care team to require a nurse practitioner practicing as part of a patient care team to be covered by a professional liability insurance policy and the requirement that a nurse practitioner practicing w/out a practice agreement obtain and maintain coverage by or be named insured on a professional liability insurance policy

SB414 (Kiggans) increases from 6 to 10 the number of nurse practitioners a patient care team physician may supervise at any one time in the category of psychiatric-mental health nurse practitioner

HB1245 (Adams) repeals sunset on bill allowing nurse practitioner to practice w/out practice agreement if they have 2 years clinical experience; grandfathers nurse practitioner practicing w/out practice agreement prior to July 1, 2022

2022 General Assembly Review

Pharmacy

HB1323 (Orrock) / SB672 (Dunnavant) provides that a pharmacist may initiate treatment with, dispense, or administer to persons 3+ in accordance with a statewide protocol developed by the BoP in collaboration with the Board and VDH vaccines included in the Immunization Schedule published by the CDC or for COVID-19 and COVID-19 tests, and provides that the pharmacist may cause such vaccines to be administered by a pharmacy technician or pharmacy intern under the direct supervision of the pharmacist. The bill also requires Medicaid to provide reimbursement for such service. The bill also provides that a pharmacist may initiate treatment with, dispense, or administer nicotine replacement and other tobacco cessation therapies, together with providing appropriate patient counseling and tests for COVID-19.

HB192 (Hodges) repeals sunset provisions for the requirement that a prescriber registered w/ the Prescription Monitoring Program (PMP) request info about a patient from the Program upon initiating a new course of treatment that includes the prescribing of opioids anticipated, at the onset of treatment, to last more than 7 consecutive days

SB511 (Suetterlein) allows a registered nurse and licensed practical nurse practicing at an opioid treatment program pharmacy to perform the duties of a pharmacy technician, provided that all take-home medication doses are verified for accuracy by a pharmacist prior to dispensing

SB594 (Pillion) clarifies that existing law that prohibits licensed providers from requiring payment from Medicaid participants for the prescription of an opioid for the management of pain or the prescription of buprenorphine-containing products, methadone, or other opioid replacements for medication-assisted treatment of opioid addiction, applies regardless of whether the provider participates in the state plan for medical assistance

2022 General Assembly Review

PBMs and 340B

HB1162 (Wachsmann) prohibits carriers and PBMs from discrimination in the requirements, exclusions, terms, or other conditions imposed on the basis that entity or pharmacy is operating under the 340B program of the federal Public Health Service Act; prohibits PBMs interfering in a covered person's right to choose a pharmacy or covered entity (does not apply to drugs with annual estimated per-patient cost exceeding $250,000 and excludes 340B hospital pharmacies)

HB360 (Fowler)/SB428 (Dunnavant) requires carriers, beginning July 1, 2025, to establish and maintain an online process to accept and approve electronic prior authorization requests from a provider and requires carriers or its PBM to provide real-time cost information data to enrollees and contracted providers for a covered prescription drug, including any cost-sharing requirement or prior authorization requirements. The bill also requires a participating health care provider, beginning July 1, 2025, to ensure that any e-prescribing system or electronic health record system owned by or contracted for the provider to maintain an enrollee's health record has the ability to access the electronic prior authorization process established by a carrier.

2022 General Assembly Review

Insurer Practices

HB912 (Orrock) directs the BOI to convene a work group to determine options for ensuring continuity of care covered by insurance for a reasonable amount of time under reasonable conditions during the time that providers and insurance carriers are negotiating provider contracts (as introduced would have increased from 90 to 180 days the time for which a carrier must permit the provider to render health care services to any of the carrier's enrollees when the carrier terminates a provider)

HB248 (Davis) Directs the VDH in consultation with the BOI to (i) develop and implement a methodology to review and measure the efficiency and productivity of providers and carriers and (ii) make available to the public such data and information and other reports collected or produced as a result of implementation of such methodology by July 1, 2023

HB146 (Head) provides that any person may submit a complaint of noncompliance by an insurer with any insurance law, regulation, or order of the SCC on behalf of a health care provider

HB773 (Hodges)/SB427 (Dunnavant) requires the protocols and procedures for the reimbursement of new provider applicants to require that the carrier provide recognition or notification of receipt of such applicant's credentialing application (i) electronically if the carrier uses an online credentialing system or (ii) by mail or electronic mail, as selected by the applicant, within 10 days of receiving the application if the carrier does not use an online credentialing system

2022 General Assembly Review

Association Health Plans

HB768 (Hodges)/SB335 (Barker) allows association health plan for realtors

HB884 (Byron)/SB195 (Mason) provides that certain trusts constitute a benefits consortium and are authorized to sell health benefits plans to members of a sponsoring association organized as a 501(c)(5) or 501(c)(6) that is a nonstock corporation in existence 5+ years, has 5+ members participating in 1+ benefits plans, has been formed for purposes other than obtaining or providing health benefits, and operates as a nonprofit entity

2022 General Assembly Review

Medical Debt Collection

Background:

- During the 2021 session, legislation aimed at UVA and VCU debt collection practices advanced, but was ultimately withdrawn by the patron.
- Multiple pieces of legislation were introduced to address medical debt collection this session (Senator Hashmi, Senator Favola, Delegate Hudson, Delegate Tran).
- In an effort to reconcile competing legislation and bring this issue to closure, VHHA worked with the patrons to develop consensus legislation.

HB1071 (Tran)/SB201 (Favola)

- Requires screening of uninsured patients for eligibility under financial assistance policies.
- Requires hospitals to make available payment plans to patients eligible under financial assistance policies and provisions to allow for renegotiation.
- Incorporates compliance with 501(6)(r) related to extraordinary collection actions.
- Requires information on payment plans to be included with information on financial assistance policies.
- Requires information to meet applicable federal Limited English Proficiency standards
- Requires reporting of the amount of charity care, discounted care, or other financial assistance provided under financial assistance policy and the amount of uncollected bad debt, including any uncollected bad debt from payment plans

2022 General Assembly Review

Medical Debt Collection - Related

HB573 (Clark) provides the statute of limitations for an action on any contract, written or unwritten, to collect medical debt, including by the state, is decreased to 3 years from the date of accrual

SB297 (Deeds) provides that any provider that undertakes any debt collection activities prior to an award from the Criminal Injuries Compensation Fund is issued or determined to be noncompensable has committed a prohibited practice under the Virginia Consumer Protection Act

SB681 (Obenshain) provides that any in-network provider that provides health care services to a covered patient that does not submit its claim to the insurer for the services in accordance with the terms of the provider agreement or as permitted under state/federal laws or regs has committed a prohibited practice under the Virginia Consumer Protection Act

2022 General Assembly Review

Hospital Price Transparency

Background:

- Delegate Helmer (Fairfax/Prince William) introduced HB481 that would have included in state law a requirement to comply with the federal hospital price transparency rules regarding shoppable services through the posting of a static list of prices (not through the use of a price estimator tool).
- Requested by a nonprofit interest group – PatientRightsAdvocate.org – see more below
  - Released February report: 23 Virginia hospitals reviewed and only 3 considered compliant
  - Evaluated compliance across 11 categories
  - No hospital reviewed in Virginia had 300 shoppable list
- VHHA opposed the legislation in House committees, but it reported out 19-2 and passed the house 98-1.
- VHHA continued to oppose the legislation in Senate committees, and it failed to report from the subcommittee, but the full committee asked for it to be reconsidered.

HB481 (Helmer)

- As amended, the bill now only includes in state law a requirement that hospitals post a list of all standard charges for all items and services provided by the hospital in accordance with 45 C.F.R. § 180.50.
  - It does not include any requirements related to shoppable services
  - It contains a delayed enactment of July 1, 2023

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2022 General Assembly Review

Hospital Price Transparency

PatientRightsAdvocate.org Semi-Annual Hospital Price Transparency Compliance Report - February 2022:

"If a hospital posted a price estimator tool for the minimum of 300 consumer shoppable services, we evaluated whether consumers with or without insurance were able to access negotiated rates and discounted cash prices using the tool. However, it was not practical to evaluate whether all 300 shoppable services were available in each of the price estimator tools. Widely varied tool structures and barriers limited or blocked access to price estimates, making price comparisons for the same codes and services across plans unattainable. We were also blocked by barriers such as the collection of personal information and specific plan identification needed for input to receive an estimate. The rule, however, mandates hospitals enable access to prices without having to submit personally identifiable information.

PatientRightsAdvocate.org Website:

The second requirement is a list of the hospital's 300 shoppable services with the five standard charges to allow consumers to shop based on price and quality. Unfortunately, hospitals can avoid this consumer-friendly requirement by implementing a "cost estimator" tool which only gives an estimate, not a real price and does not include all of the five standard charges."

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2022 General Assembly Review

Hospital Price Transparency

Dan Helmer
@HelmerVA

It's simple: hospitals should show their prices. This morning in a committee hearing, @VirginiaHHA claimed that they do. Today, a new report from @PtRightsAdvoc shows that's simply not true. We're not going to stop fighting until all Virginians can afford healthcare.

4	Carilion Roanoke Memorial Hospital	Roanoke	VA	Compliant	Center	Reston	VA
4	Centra Virginia Baptist Hospital	Lynchburg	VA	Noncompliant			
5	Chippenham Medical Center	Richmond	VA	Noncompliant	Hospital	Richmond	VA
6	Dominion Hospital	Falls Church	VA	Noncompliant	General Hospital	Norfolk	VA
7	Henrico Doctors' Hospital	Richmond	VA	Noncompliant			
8	Inova Fairfax Hospital	Annandale	VA	Noncompliant	gional Medical Center	Fredericksburg	VA
9	John Randolph Medical Center	Hopewell	VA	Noncompliant			
9	Johnston-Willis Hospital	Bon Air	VA	Noncompliant	spital Center	Dulles	VA
1	LewisGale Hospital Alleghany	Low Moor	VA	Noncompliant	Hospital	Charlottesville	VA
2	LewisGale Hospital Montgomery	Blacksburg	VA	Noncompliant			
3	LewisGale Hospital Pulaski	Pulaski	VA	Noncompliant	enter	Richmond	VA
4	LewisGale Medical Center	Salem	VA	Noncompliant			
5	Riverside Walter Reed Hospital	Gloucester	VA	Noncompliant	l Center	Arlington	VA
6	Parham Doctors' Hospital	Richmond	VA	Noncompliant	ical Center	Winchester	VA

9:40 AM · Feb 10, 2022 · Twitter Web App

Families USA
@FamiliesUSA

Over 80% of adults support fed. gov. requiring hospitals to make their prices available. Despite @VirginiaHHA's claims that all hospitals in VA are complying, the truth is that only 13% are. HB481 must be passed so that Virginians can make the best choices for their families.

PatientRightsAdvocate.org Retweeted

Katy Talento @KatyTalento · Feb 15

I'm sure that @JulieDime of @VirginiaHHA was just "misinformed" when she claimed that all Va hospitals comply with fed price transparency rules, as a reason to oppose HB481, ending secret prices. Truth = 13% compliance, see new study here: bit.ly/3uNCtsd @DelDanHelmer

Power to the Patients Richmond, Virginia मा हुनुहुन्छ।
फेब्रुअरी २२ तारिक ०७:१८ बजे ·

Good Morning Richmond, VA. Our most recent mural was just completed at 2001 W. Main Street 23220 Let's do right for all the people of Virginia. #powertothepatients #rva

https://www.powertothepatients.org/murals-across-america

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2022 General Assembly Review

Defeated Legislation

1. **Certificate of Public Need**
   (HB743 (Bell)/SB293(Deeds)) BH TDOs – *Continued to 2023*
   (SB205 (Petersen)) Exp. Review – *PBI*
2. **Medical Malpractice Cap**
   (SB599 (Stanley)) – *PBI*
3. **Vertically Integrated Carriers – Any Willing Provider**
   (HB1075 (Leftwich)/SB204 (Petersen)) – *Continued to 2023/PBI*
4. **Freestanding Emergency Departments**
   (HB770 (Hodges)/SB340 (Barker)) – *Tabled/Continued to 2023*
5. **Paid Sick Leave for Grocery and Health Care Workers**
   (HB1160 (King)/SB352 (Surovell)) – *Tabled/Tabled*

2022 General Assembly Review

Defeated Legislation

6. Covenants Not to Compete for Health Care Providers
   (HB580 (VanValkenburg)) – *Tabled*
7. Off-Label Prescribing/Ivermectin
   (HB102 (Greenhalgh)) – *PBI*
   (HB976 (LaRock)) – *PBI*
   (SB711 (Chase)) – *PBI*
   (SB73 (Chase)) – *PBI*
8. Nursing Home Staffing Ratios
   (HB330 (Watts)) – *Continued to 2023*
   (HB646 (Carr)) – *Continued to 2023*
   (HB1160 (King)/SB352 (Surovell)) – *Failed to Rpt*

2022 General Assembly Review

Budget

General Assembly adjourned March 12, 2022, without finalizing budget legislation:

- House includes almost $5.5 billion in tax cuts and rebates
- Senate continues to defer doubling of the standard deduction for income tax filers ($2 billion over two years)
- Senate has agreed to partial repeal of the 2.5% sales tax on groceries, but not the 1% that goes directly to localities and has rejected a 12-month rollback in the gas tax

Special session will be required to complete work on budget legislation

Reconvened Session (Veto Session) is scheduled for April 27, 2022

2022 General Assembly Review

Budget

Governor Northam Introduced Budget health-related priorities include:

- Sets aside $424M in ARPA funding to address future impacts of the COVID-19 pandemic
- Proposes further study of the behavioral health system in SFY23 and allocates $100M to implement study recommendations in SFY24.
- Includes $263M to improve access to community-based behavioral health services and crisis services and includes $164M to provide pay raises at state hospitals and training centers
- Proposes to increase rates for services including dental, primary care, disability waiver, obstetrics and gynecology and eliminate remaining program copayments for enrollees (will affect Coverage Assessment)

House and Senate budget legislation are amendments to this budget

2022 General Assembly Review

Budget Priorities – Health Care

COVID-19 Reimbursement

House: $0

Senate: $60M in ARPA funds

VHHA Position: Support the Senate position

VHHA Alternative Proposal: $34M in ARPA funds for reimbursement of vaccination efforts and increase in staffing costs. Breakdown: $14M for vaccination efforts and $20M for increase in staffing costs associated with surge.

Trauma Fund

House: $13M ARPA funds for SFY23 only.

Senate: $10M for the biennium

VHHA Position: Support Senate + 2M = $12M over the biennium

Trauma Fund Sustainability

- The Trauma Center Fund supports the 19 Virginia hospital trauma centers.
- The Trauma Center Fund is funded by fees associated with the reinstatement of driver's licenses and the fees associated with DUI convictions.
- A 2019 budget amendment related to changes to law regarding payment of reinstatement fees inadvertently zeroed out the Fund.
  - Law prohibits state courts from suspending driving privileges solely for unpaid court fines and costs
  - Under the new law, only drivers whose licenses are suspended for reasons other than unpaid court fees and fines are required to pay the fee
  - Drivers who had their license suspended for unpaid court fines were previously required to pay a $145 reinstatement fee, of which $100 went to the Trauma Center Fund and $45 went to the Department of Motor Vehicles

Bottom Line: Need to establish a dedicated funding source for the Trauma Center Fund of approximately $ 12.5 million per year.

2022 General Assembly Review

Budget Priorities – Health Care

Inflation Adjustment

The House and Senate budgets do not include an inflation adjustment to hospital payment rates.

ED and Readmissions Penalties

The House and Senate retained the ED penalty included in the introduced budget.

ED and Readmissions Penalties

ED Penalties - $40M/yr Projected Loss to Hospitals and Physicians

- 2020 Budget directs DMAS to allow the downcoding of claims for “avoidable” emergency room level two, three and four claims, both physician and facility. If the emergency room claim is identified as a preventable emergency room diagnosis, the DMAS will direct the MCOs to default to a payment level one.
- Contrary to longstanding CMS guidance and policy included in the No Surprises Act regarding the Prudent Layperson and language prohibiting downcoding of claims.

> When a plan or issuer denies coverage, *in whole or in part*, for a claim for payment of a service rendered in the emergency department of a hospital or independent freestanding emergency department, including services rendered during observation or surgical services, *the determination of whether the prudent layperson standard has been met must be based on all pertinent documentation and be focused on the presenting symptoms (and not solely on the final diagnosis).* This determination *must take into account that the legal standard regarding the decision to seek emergency services is based on whether a prudent layperson* (rather than a medical professional) would reasonably consider the situation to be an emergency.

2022 General Assembly Review

Budget Priorities – Health Care

Behavioral Health

The Senate and House budgets maintain most of the behavioral health investments made by Governor Northam in his outgoing budget, except the removal of a one-year behavioral health study and accompanying $100 million set aside to fund recommendations from the study.

The Senate and House budgets add an additional $ 2 million in SFY23 for alternative custody of patients under a temporary detention order (TDO) awaiting inpatient admission.

House

- $7.5 million in SFY23 for three crisis receiving centers ($2.5 million each) – Northwest (Winchester Medical Center), Southwest, and Prince William
- $3.1 million in SF23 to support a 20-bed inpatient psychiatric unit at Chesapeake Regional Medical Center

Senate

- $6 million each year to address inflation for psychiatric residential treatment facility rates
- $38 million to support community services boards (CSBs) with workforce recruitment and retention bonuses
- Establishes the Department of Behavioral Health & Developmental Services (DBHDS) Restructuring Workgroup

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2022 General Assembly Review

Budget Priorities – Health Care

Workforce

The Senate and House budgets maintain most of the workforce investments made by Governor Northam in his outgoing budget.

House

- $2 million in GF over the biennium to VDH for funding nursing scholarship and loan repayment programs to recruit and retain nurses and nurse faculty
- Retains $1 million in GF over the biennium for the Nursing Preceptor Incentive Program
- $2 million in GF for SFY23 only for a newly created Virginia Health Workforce Development Fund, as well as, $170,000 in GF each year to support a new Special Advisor to the Governor position

Senate

- $1.1 million in GF over the biennium to VDH for funding nursing scholarships
- $1 million over the biennium for Psychiatric Residency Slots
- Also retains $1 million in GF over the biennium for the Nursing Preceptor Incentive Program

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New General Assembly Building

Building is scheduled for completion fall of 2022

Provider Relief Fund - Update

- HHS through HRSA announced on February 24 that they are making $ 560 million in PRF Phase 4 general distribution payments to 4,100 providers for the week
- Increases the total payout on Phase 4 to $11.3 billion and to 78,423 providers
- In Virginia $12.2 million to 102 providers – Phase 4 Virginia total - $ 195 million
- Still leaves about $6 billion to be distributed – Distributions are supposed to be completed by March 31st.
- Reporting Period 2 through the portal is open through March 31, 2022
- Reporting Period 3 the portal opens on July 1, 2022

TDO Tracking

TDO Tracking – Memo sent to Hospital CFOs and Hospital Data Submitters on Wednesday January 19th

- Va Regulatory Town Hall
- Requires tracking of 7 categories (legal status) of TDO patients through the Virginia Patient-Level Data System
- Quarterly submission to HIDI - Locator H, field 157-158

- Have some time to comply but should have some data in the system by the time of the second quarter data submission

Medicaid Coverage and Reimbursement Update

Who Does Medicaid Serve

Children 821,899

Pregnant Members 28,217

Older Adults 83,289

Individuals with Disabilities 153,157

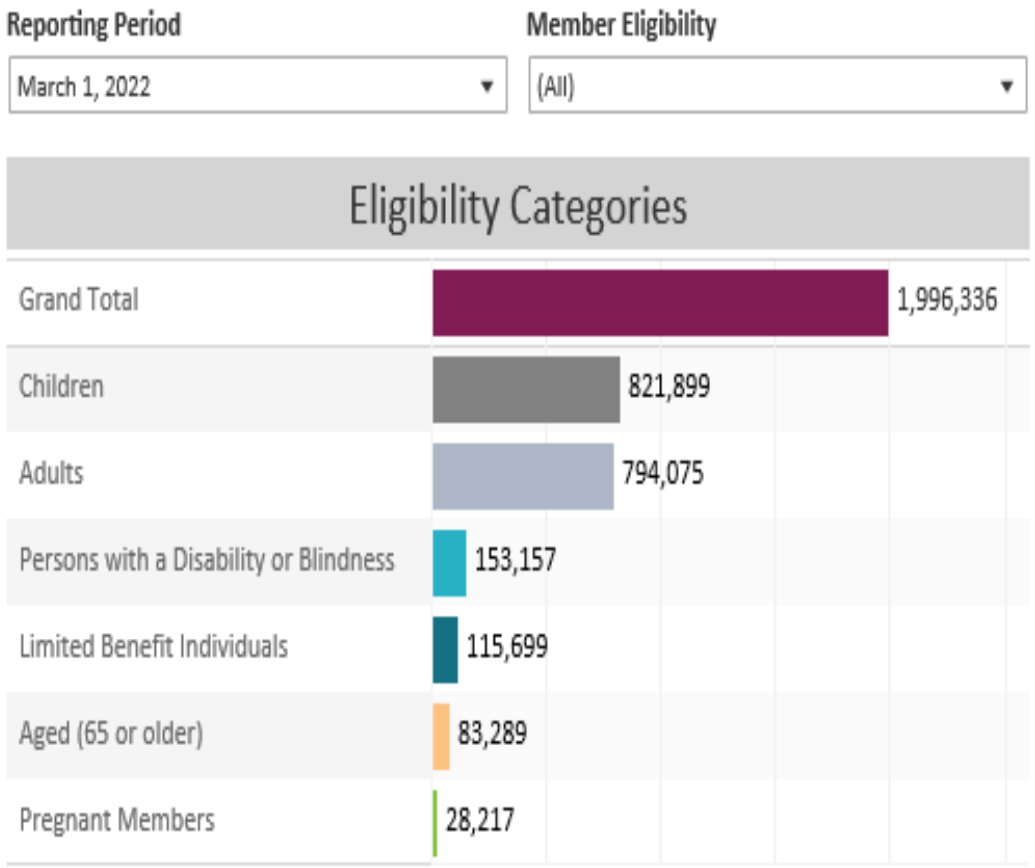
Adults 794,075

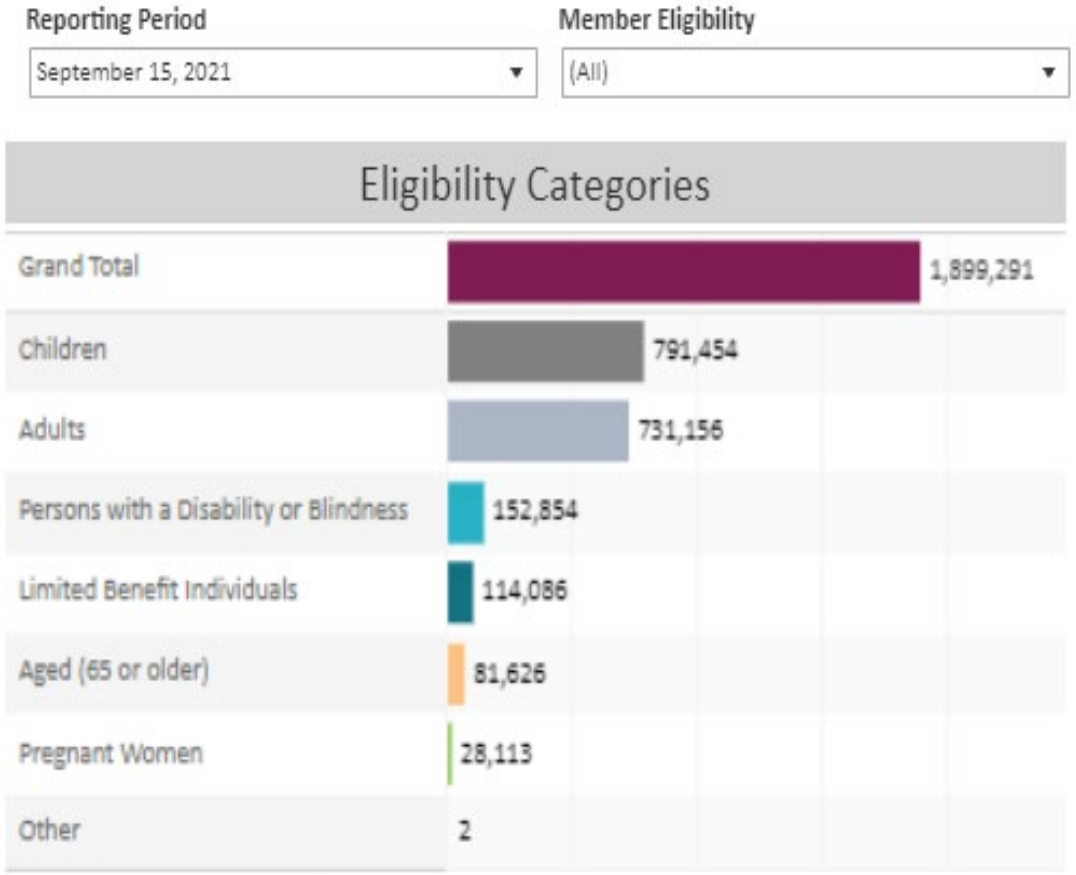
Medicaid plays a critical role in the lives of over 1.99 million Virginians

DMAS Data March 1, 2022 https://www.dmas.virginia.gov/data/medicaid-famis-enrollment/

Medicaid Coverage and Reimbursement Update

Total Medicaid Enrollment





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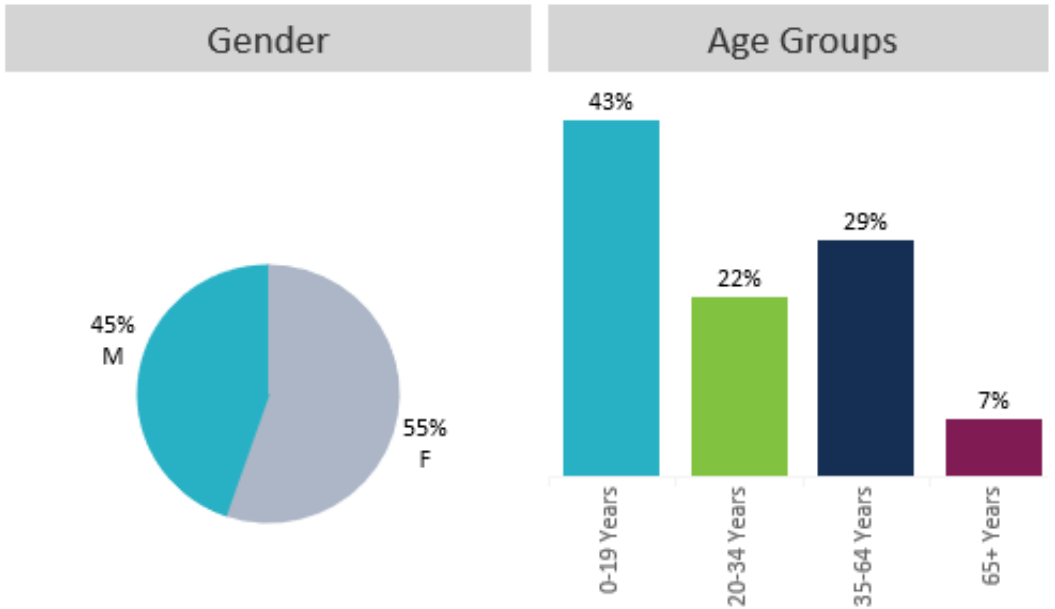
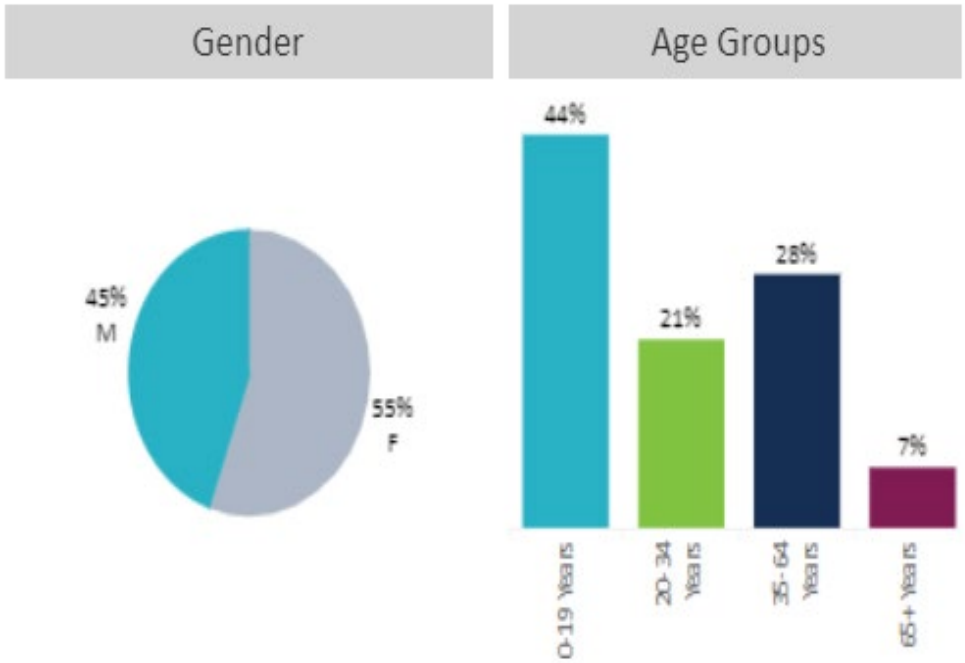
Medicaid Coverage and Reimbursement Update

Total Medicaid Enrollment By Gender and Age

March 1, 2022



September 15, 2021



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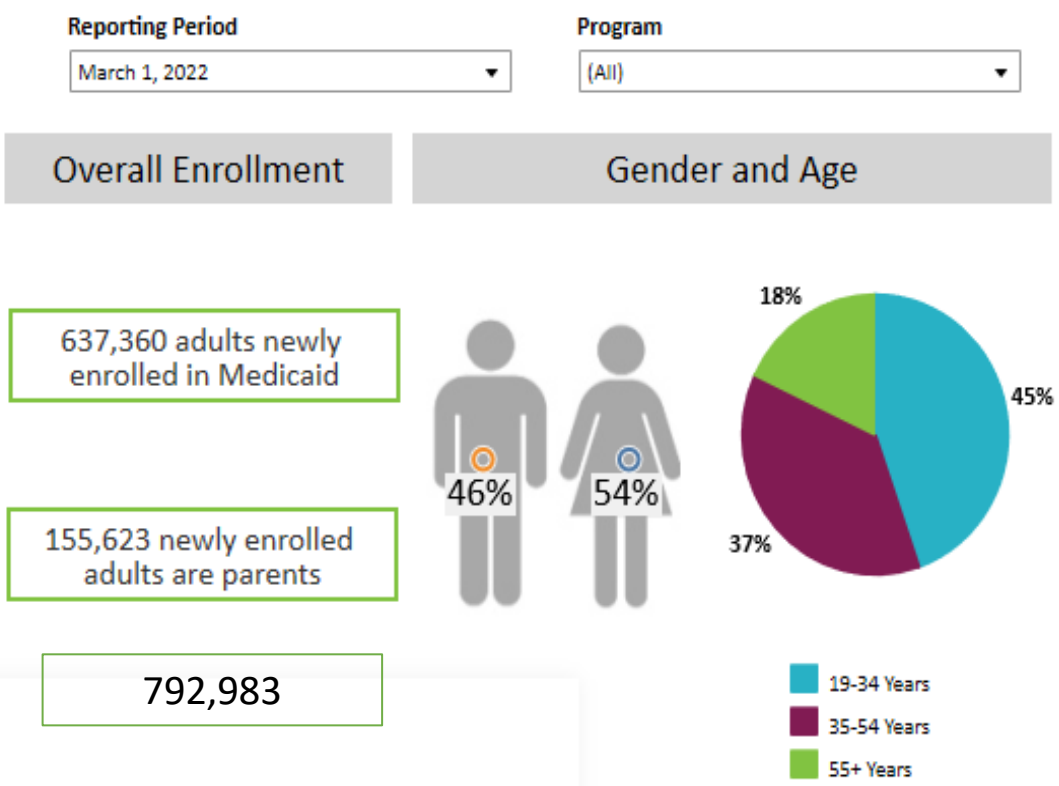
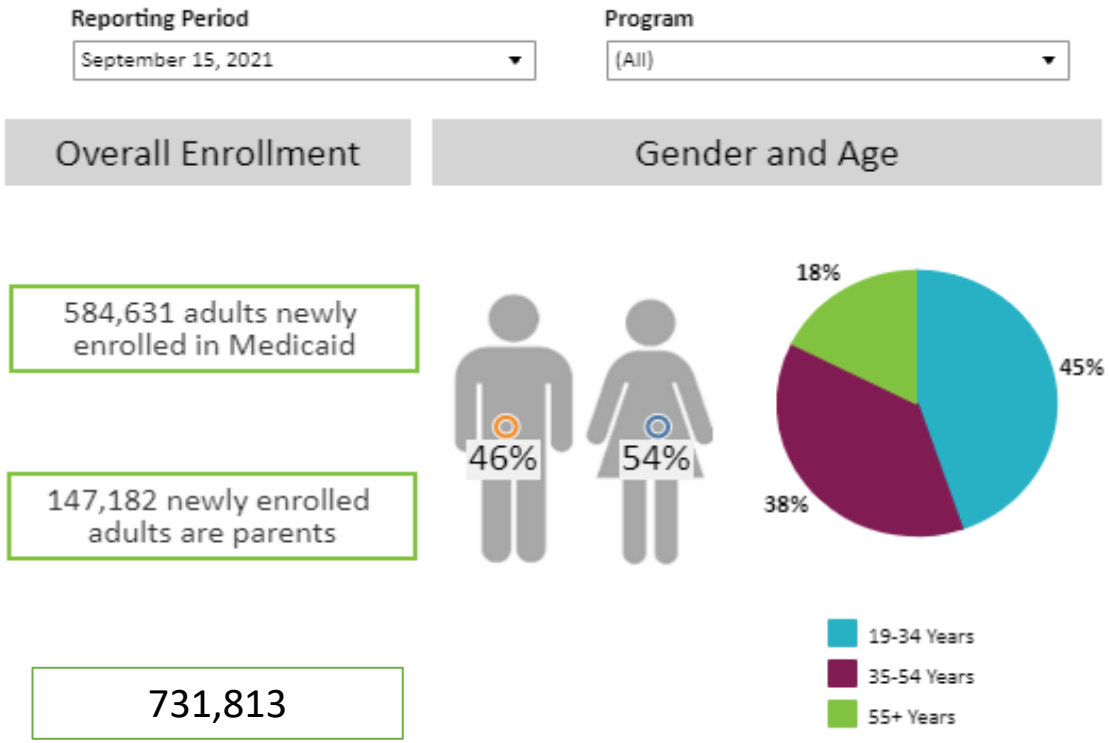
Medicaid Coverage and Reimbursement Update

Medicaid Expansion





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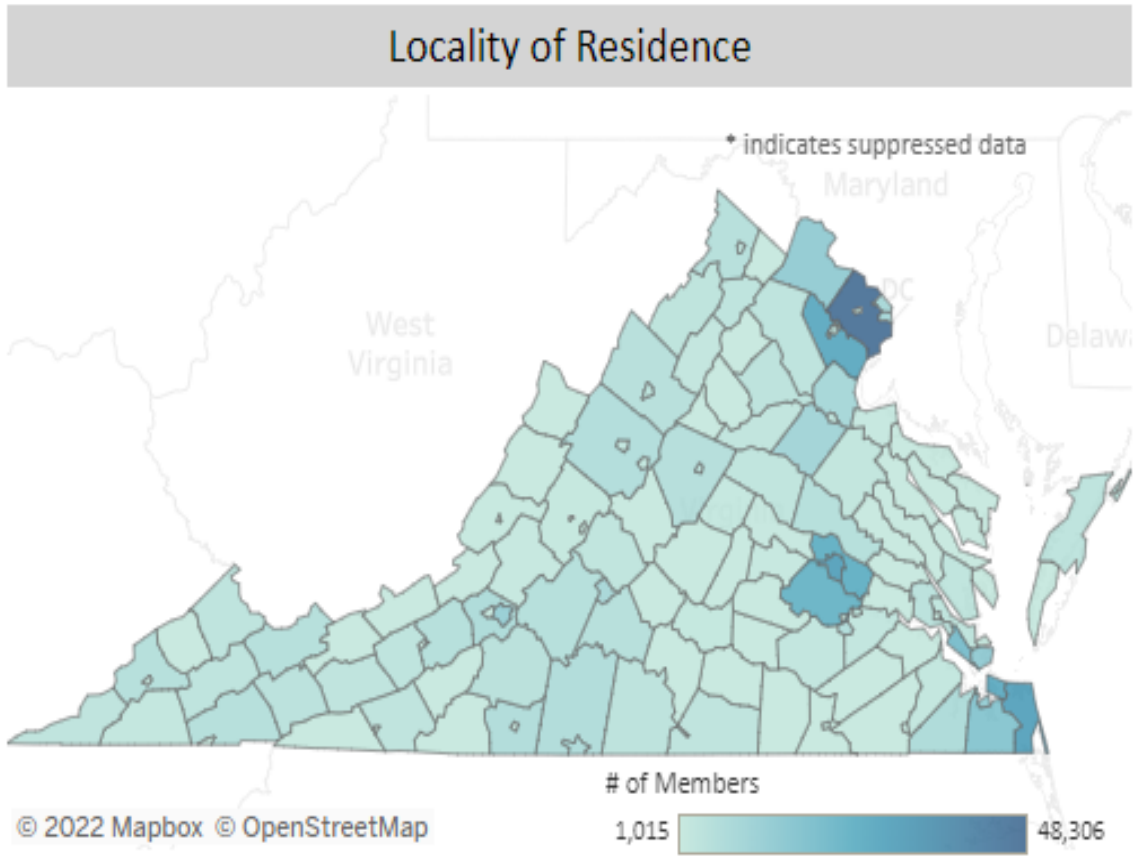
Medicaid Coverage and Reimbursement Update

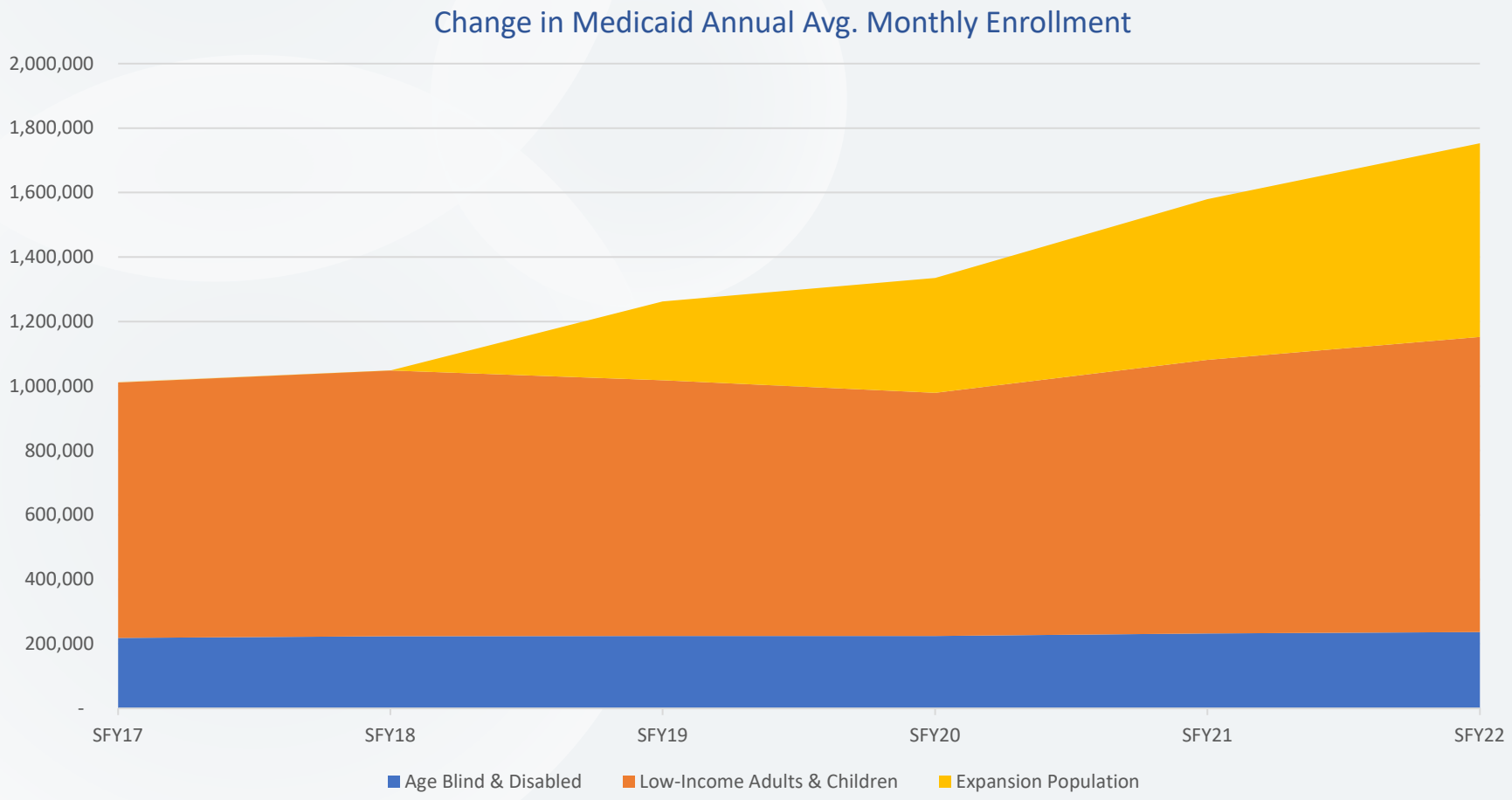
Medicaid Expansion Enrollment Across the State



Medicaid Region	
Central Region	165,438
Charlottesville Western Region	78,703
Northern & Winchester Region	137,890
Roanoke/Alleghany Region	64,024
Southwest Region	44,624
Tidewater Region	146,681
Grand Total	637,360

* indicates suppressed data

Medicaid Coverage and Reimbursement Update



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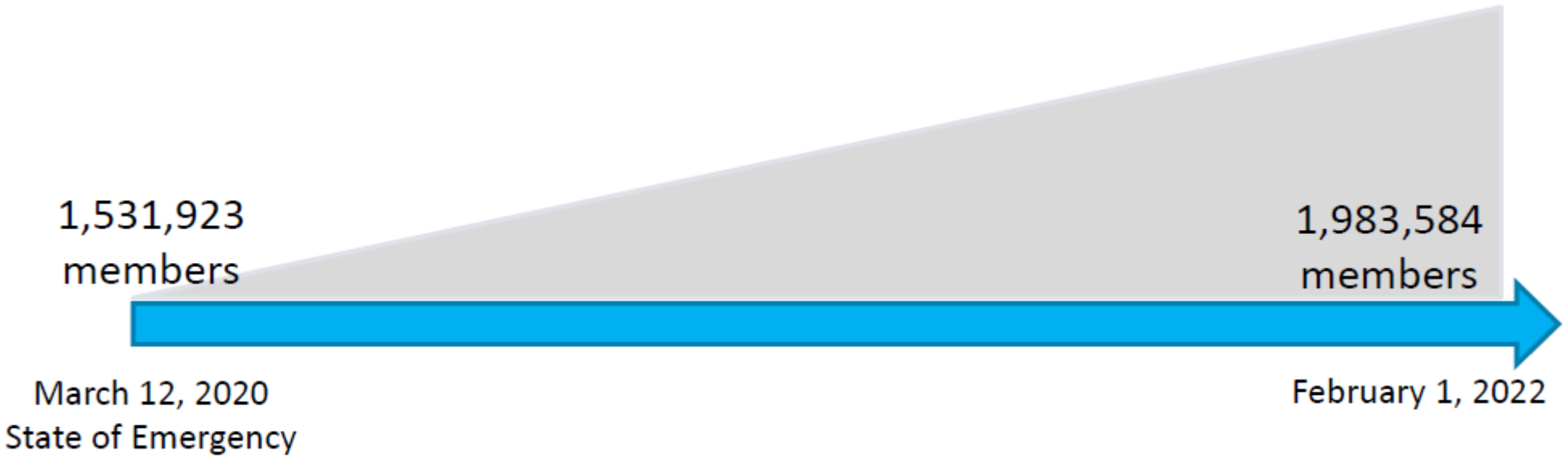
Medicaid Coverage and Reimbursement Update

Reimbursement Updates

- **The enhanced FMAP of 6.2 percent will remain in effect until the end of quarter after the PHE ends. Since Virginia is a 50-50 match rate state this drops the match rate down to 43.8 percent for the traditional Medicaid population. Does not pertain to the expansion population which has a 90-10 match rate.**

  - States cannot impose stricter eligibility standards
  - Cannot use funds to supplant existing state funds
  - Payment rates must be no less than what was in place on April 1, 2021
  - Cannot remove members from the enrollment – Will be a redetermination process that must be completed within a year

Enrollment Growth During the PHE



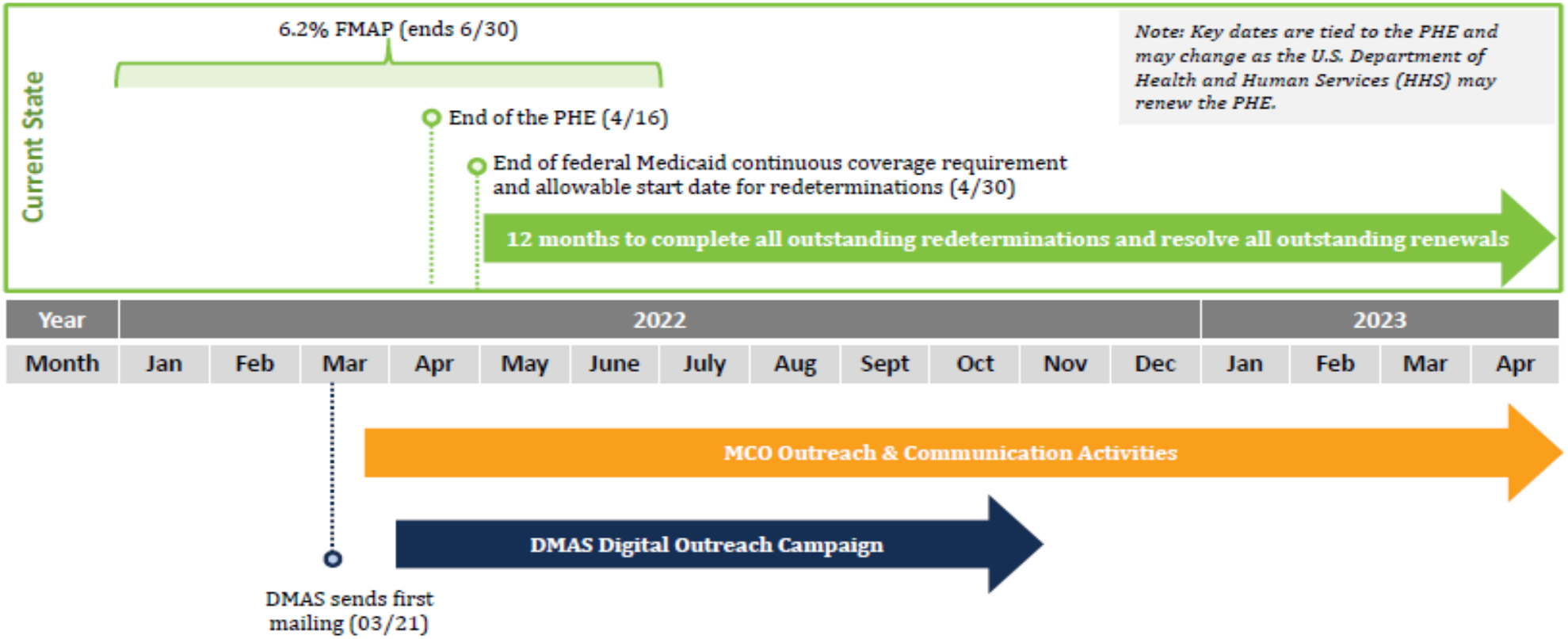
- Since the State of Emergency was declared, Medicaid has gained **451,661 new members**
  - 236,307 are in Medicaid Expansion
  - 132,513 are children

Resuming Normal Operations, AKA “Unwinding” Policies

- HHS Secretary Becarra has the authority to extend the federal Plublic Health Emergency (PHE)
- The current federal PHE expires 04/16/2022
- If unwinding is based around the PHE expiration, normal operations can resume in the month in which the PHE ends
- The enhanced FMAP would end at the end of the quarter in which the PHE ends
- States have 12 months to initiate all redeterminations and an additional two months to complete all unwinding work and come into compliance with all timeline standards, however no member can be terminated without a full re-determination

Current Timeline – Redeterminations & Communications

The March 2022 guidance lays out a timeline of up to 12 months for states to initiate redeterminations. New federal guidance allows for an additional two months to allow time for processing and addressing any backlogs.



Unwinding/Renewal by Month

Current PHE Redetermination Schedule				
Automated Renewal Month	Current Due Renewals	Current Renewal Counts by Members	Overdue Renewal Month(s)	Overdue Renewal Counts by Members
1: April 2022	Jun-22	44,301	Mar-Sept 20	70,165
2: May 2022	Jul-22	52,890	Oct-Nov 20	98,803
3: June 2022	Aug-22	47,488	Dec 20-Mar 21	105,738
4: July 2022	Sep-22	114,444	Apr-May 21	59,442
5: August 2022	Oct-22	160,813	Jun-21	15,033
6: September 2022	Nov-22	169,321	July-Aug 21	26,010
7: October 2022	Dec-22	99,732	Sep-21	67,115
8: November 2022	Jan-23	61,952	Oct-21	95,712
9: December 2022	Feb-23	58,134	Nov-21	88,752
10: January 2023	Mar-23	not available	Dec 21-Jan 22	135,435
11: February 2023	Apr-23	not available	Feb-Mar 22	166,026
12: March 2023	May-23	not available	Apr-May 22	125,807
Total		809,075		1,054,038

Note: All dates are subject to change, contingent on reviewing data monthly, and system limitations. MMIS data as of 02/24/2022. Yellow shaded boxes are for months without full data.

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The Commonwealth's Unwinding Planning Efforts

DMAS and DSS will be faced with a significant backlog of cases that await redeterminations at the end of the continuous coverage requirement. To date, the Department has made great strides in preparing for the end of the federal continuous coverage requirement by:

Making systems updates (e.g., new VaCMS automation) to improve the efficiency of the renewal/redetermination process. This is expected to reduce the number of individuals that are inappropriately terminated following the PHE.

Developing a detailed plan to stage redeterminations, including spacing redeterminations to allow timely and expeditious evaluations and by identifying actions that will be required for each coverage group.

Collaborating with managed care organizations (MCOs) to provide information/education to members post-PHE; ensure up-to-date contact information (e.g., addresses, phone numbers); and remind members to complete their renewal.

Addressing returned mail by engaging with a dedicated team within the Central Eligibility Unit. When the Commonwealth receives returned mail after sending initial notices, the state will have better insight into which enrollees have outdated mailing addresses and can target additional outreach to those enrollees through alternate modes of communication.

Communications plan (e.g., direct member mailing, digital outreach, updates to the Cover Virginia website, eligibility worker reinforcement, application assistance) to ensure members understand the steps they need to take, when to act, and what to do to maintain coverage.

Coordinating language approval and scheduled delivery of mailings/digital/telephonic outreach in order to ensure consistent messaging to members and coordinate timing of any outreach.

Identifying which federal flexibilities the Commonwealth will maintain and new strategies that the Department may want to leverage in order to help with the unwinding process.

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MMR Reports – Reports used to Complete Medicaid Cost Reports

MMR Reports – Still missing the expansion reports for this year

- Supposedly problem is resolved and Optum is developing final output report format
- DMAS is still developing new MR reports and their goal was to have new reports by the April 4 transition to the Medicaid Enterprise System (MES)
- Those providers who deem the current MMR reports inaccurate can continue to submit their cost reports using their internal data and keep sufficient documentation for those data
- DMAS will notify At this point, will have to use verifiable internal data to support your cost report filings
- The current or existing MR reports are available through eDocManagement. If don't see the MR reports, contact MSLC cost settlement at Andrea Crump (acrump@mslc.com or Ayana Washington (awashington@mslc.com) before contacting DMAS

Medicaid Rebasing

- Inpatient rebasing was shared with a group of hospitals back in October
- Changing the APR-DRG grouper from version 35 to 38. Grouper change is creating an over 10 % decrease in reimbursement.
- Base rate is increasing from $7,719.93 to $ 8,231.65 – 6.63% - Costs
- Estimated decrease to Type 1 and Type 2 hospitals is 4.64 % or about $ 56 million
- Still several outstanding questions – including methodology and grouper weights
- Have not seen any information on outpatient rebasing

Medicaid MMIS to MES Conversion

Effective April 4, 2022 the Medicaid MMIS system will transition to the new Medicaid Enterprise System(MES)

- It is critical to have a Primary Account Holder(PAH) established for each tax ID number. One email address per each Tax ID. Must be done by March 7th.
- The person selected will have to login at least every 90 days or will lose access
- There will be an outage from March 30th through April 3rd. Not able to provide LTSS screenings, verify eligibility, service authorizations or have access to the Medicaid portal
- **Claim payments will not be made on April 8th.**

Provider Outreach and Training

https://vamedicaid.dmas.virginia.gov/provider/faq

Provider outreach and training will be available:

- Email alerts
- Training resources
  - Virtual instructor-led classes
  - Self-paced videos
  - User manuals
- FAQs
- Agency website
- Medicaid memos
- Stakeholder webinars

MMIS Impacts and Mitigation

New Provider Services Solution portal implemented for provider enrollment and management

- Phase 1: Fee-for-service providers (April 4 launch)
- Phase 2: Managed care network providers (Two-year process starting June 2022)

Increased security for access to MMIS

- Single Sign On accounts requiring 2-factor authentication to comply with MES security requirements
- Plan to begin credentialing process this month, including local social services, sister agencies and vendors.
- Current access to the MMIS will be available for a short period after April 4. DMAS will monitor MES access through the new portal and will send a warning message when access to the MMIS through the current portal ends.

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MMIS Outage

***One important step in preparation for the MES launch will be a* five-day outage of MMIS**

- This pause is necessary for key pre-launch steps to be executed without interruption
- All DMAS business areas are documenting/communicating potential impacts to operations, creating contingencies and preparing to execute their Continuity of Operations Plans
- From March 30 through April 3 the following agency functions will be affected:
  - Provider
  - Claims
  - Member Eligibility
  - Service Authorizations
  - Encounters

No FFS Claim Payments on April 8th

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Cardinal Care Virginia

- The two Medicaid programs – **Medallion 4.0 and CCC Plus will merge**
- **July 1, 2002**

Two managed care programs focused on the diverse needs of the populations serving 90% of the population through six Statewide managed care plans

Medallion 4.0	CCC Plus
▪ Serving infants, children, pregnant women, adults including most Medicaid expansion	▪ Serving older adults and disabled individuals Includes Medicaid-Medicare eligible
▪ Acute, chronic, primary care and pharmacy services, for adults and children, and also includes SUD, and behavioral health services, excludes LTSS	▪ Full continuum of services (same as Medallion), but also includes long-term services and supports (LTSS) in the community and in nursing facilities and hospice
▪ Implementation statewide August 2018	▪ Implemented statewide in January 2018

Medicare DGME Application

- The application is open through March 31, 2022
- CMS Direct GME Page: https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/DGME
- Providers can check website Hospitals Open Door Forum | CMS to monitor the link for further instructions on joining
- Applicants can ago to the Paperwork Reduction Act listing for section 126 to view what information is needed as part of the section 126 application:
  - Go to: https://www.cms.gov/regulations-and-guidancelegislationpaperworkreductionactof1995pra-listing/cms-10790
  - Under the “Downloads" section, select the Zip file “CMS 10790"
  - Select the first PDF “CMS-10790_APPENDIX A_126 PRA Applicant Questions_Revised_508.pdf"
- **If applicants have technical questions,** the MEARIS resources page for Section 126 consists of a way for applicants to reach out to the contractor with questions. https://mearis.cms.gov/public/resources
- Application submission process: https://www.cms.gov/files/document/section-126-application-submission-process.pdf
- MEARIS system to apply: https://mearis.cms.gov/public/resources?app=gme126
  - Includes overview, process, requirements, FAQs, Useful links and support request form
- January 13, 2022 MLN Connects newsletter included basic information and was sent to all MLN and Regional list subscribers

Transparency and No Surprises Act

- Since you already had a presentation on this, we did not prepare any slides
- Any questions or thoughts anyone would like to share?
- Additional regulations will be issued due to the Texas case ruling which said the regulations concerning the Qualified Payment Amount (QPA) must be rewritten

Questions and Answers

Thank You!

For questions or comments email:

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jandrews@vhha.com

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