November 3, 2021

To: Karen Kimsey, Director

Department of Medical Assistance Service

Karen.kimsey@dmas.virginia.gov

From: Teri Morgan, Executive Director, Virginia Board for People with Disabilities

Tonya Milling, Executive Director, The Arc of Virginia

Karen Tefelski, Executive Director, vaACCSES

Via electronic mail to: [Karen.kimsey@dmas.virginia.gov](mailto:Karen.kimsey@dmas.virginia.gov)

RE: American Rescue Plan Act of 2021, Section 9817

The Virginia Board for People with Disabilities, the Arc of Virginia, and vaACCSES recognize the current opportunity Virginia has to expand and strengthen Home of Community Based Services (HCBS) in Virginia. We appreciate the steps DMAS has taken to put forward Virginia’s spending plan proposal to the Centers for Medicare and Medicaid Services (CMS) to utilize enhanced federal medical assistance percentage (FMAP). We are eager to learn about the additional strategies DMAS will put forward for consideration by the 2022 General Assembly.

According to the DMAS Spending Plan for Implementation of ARPA provided to CMS, DMAS is estimating $110,751,565 in year two and $166,260,027 in year three of general fund dollars freed up by the enhanced FMAP to reinvest in HCBS. As you know, the HCBS system has been under tremendous stress during the pandemic. This investment can promote access to integrated services, support building provider capacity, and facilitate enhanced opportunities that empower individuals and their families.

The Virginia 2021 Appropriations Act, as amended by Special Session II required DMAS to submit to the General Assembly by October 1, 2021 prioritized strategies to enhance the Commonwealth’s HCBS by 1) creating capacity to meet the growing demand for HCBS; and 2) support structural changes needed to strengthen the HCBS systems. It is our understanding that the strategies have not yet been submitted to the General Assembly.

In its letter to State Medicaid Directors, CMS encouraged stakeholder engagement in this process:

CMS recognizes the importance of effective stakeholder engagement processes that can provide states with varied perspectives on how to expand, enhance, and strengthen HCBS. States may want to consider engaging a broad community of stakeholders—Medicaid and other state agency leadership, participants in HCBS programs, residents in long-term care facilities, HCBS providers, family members and other caregivers, the aging and disability network, health plans, and the direct support workforce—to provide insight, ideas, and feedback to inform the state’s approach to developing and implementing activities under section 9817 of the ARP. Further, CMS expects that states will offer, in good faith and in a prudent manner, a public notice process, including tribal consultation as applicable, when implementing changes to their HCBS programs. [[1]](#footnote-1)

We are hoping for a transparent process that includes open public input and clear communication of guiding values. Examples of public input provided by CMS include statewide stakeholder meetings, public forums, and public comment on HCBS written proposals.[[2]](#footnote-2) We would love to have a conversation about what DMAS is considering and an opportunity to share our collective expertise and recommendations. Please let us know if this is something we can schedule.

Sincerely,

Teri Morgan Tonya Milling Karen Tefelski

Executive Director Executive Director Executive Director

Virginia Board for The Arc of Virginia vaACCSES

People with Disabilities

CC: Tammy Whitlock, Deputy Director of Complex Care and Services

Ann Bevan, Director, Division of High Needs Supports

1. State Medicaid Director SMD# 21-003: RE Implementation of American Rescue Plan Act of 2021 Section 9817: Additional Support for Medicaid Home and Community-Based Services during the COVID-19 Emergency, May 13, 2021 (<https://www.Medicaid.gov/federal-policyguidance/downloads/smd21003.pdf>     [↑](#footnote-ref-1)
2. *Expanding, Enhancing, and Strengthening Home and Community-Based Services under Section 9817 of the American Rescue Plan Act*, ACL and CMS 2021 HCBS Technical Assistance Webinar Series [↑](#footnote-ref-2)