

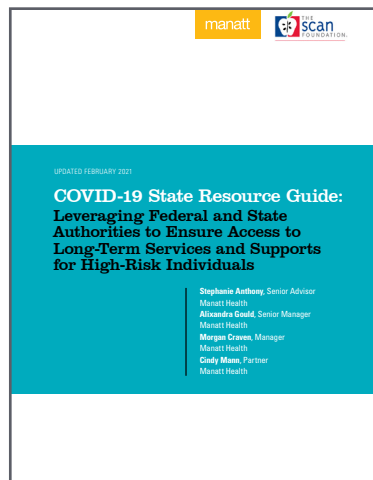
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COVID-19 State Resource Guide: Leveraging Federal and State Authorities to Ensure Access to Long-Term Services and Supports for High-Risk Individuals

Background

Since the start of the COVID-19 pandemic, federal and state policymakers have acted to preserve access to services for populations that use Medicaid-covered long-term services and supports (LTSS). These populations include older adults and people with chronic conditions or disabilities who are at high risk for experiencing severe cases if they contract COVID-19 and face disruptions in access to care if they or their caregivers must quarantine or isolate. Among other actions, policymakers have directed emergency funding to bolster providers and maintain Medicaid coverage for individuals, and have granted regulatory relief to minimize administrative, clinical or financial barriers to accessing services.

These actions are described in the [report](#) “COVID-19 State Resource Guide: Leveraging Federal and State Authorities to Ensure Access to Long-Term Services and Supports for High-Risk Individuals,” published in February 2021.¹ The resource guide is a tool for policymakers and other stakeholders to understand how states are deploying federal emergency funding and Medicaid regulatory flexibilities to improve access to LTSS for older adults and people with disabilities of all ages.



New Developments in 2021

Manatt Health sought to update the resource guide based on a scan of new or modified regulatory flexibilities and other state administrative actions through July 2021 and based on continued monitoring of states' overall responses to the pandemic to ensure access to LTSS for high-risk individuals. Manatt Health found that as states operationalized their existing temporary Medicaid regulatory flexibilities, they gained greater insights on long-standing vulnerabilities in their LTSS systems that were worsened during the pandemic and turned their attention to making long-term system improvements. Major trends in 2021 are described below.

- **States strategically leveraged federal funding to improve their COVID-19 responses and invest in longer-term system reforms.** All 50 states plus the District of Columbia submitted to the Centers for Medicare and Medicaid Services (CMS) and began to implement home and community-based services (HCBS) “spending plans” to leverage new federal funding authorized in the American Rescue Plan Act of 2021 (American Rescue Plan).² The American Rescue Plan provides enhanced federal Medicaid funding for state spending on HCBS, enabling states to redirect freed-up state Medicaid dollars to address their COVID-19-related HCBS needs and strengthen and improve their HCBS systems. Based on early lessons learned from the pandemic and deployment of the regulatory flexibilities, states are investing in a broad array of system improvements, including HCBS provider rate increases, telehealth, technology, and direct care workforce recruitment and training.³

Federal Efforts to Strengthen Medicaid Home and Community-Based Services (HCBS) and Other Programs for Older Adults and People With Disabilities

In 2021, the federal government signaled its intent to heavily invest in strengthening states' HCBS systems. In March, Congress passed the American Rescue Plan, providing nearly \$2 billion in COVID-19 relief funding to various federal, state, and local programs and stakeholders. The relief package includes broad supports that improve care for older adults and people with disabilities—including for nursing home infection control, supports for aging and disability services programs, and COVID-19 testing and vaccine distribution activities—as well as specific investments in state HCBS systems. Under the American Rescue Plan Act of 2021 (American Rescue Plan), states are eligible to receive a 10-percentage point increase to their federal Medicaid contribution for specified Medicaid HCBS spending between April 1, 2021, and March 31, 2022. States can then reinvest freed-up state dollars to enhance, expand or strengthen Medicaid HCBS through March 2024. To take advantage of this opportunity, states are required to develop and maintain an HCBS spending plan. CMS has approved spending plans for all 50 states and D.C. The provision also places a “maintenance of effort” requirement on states beginning April 1, 2021, and until the state reinvestment funds are fully expended (as late as March 2024). As part of this requirement, states generally are not allowed to reduce eligibility, benefits or provider rates during this period, with some exceptions. One exception accounts for the end of the temporary COVID-19-related changes states made during the pandemic.

While the American Rescue Plan provides states with significant dollars to address their ongoing COVID-19-related HCBS needs and bolster their HCBS infrastructure, these funds expire by the end of March 2024. President Biden's proposed Build Back Better (BBB) legislation, which has stalled in Congress, committed significant longer-term federal funding for state Medicaid HCBS system and workforce investments. It is unclear whether efforts to revive negotiations on BBB will be successful in 2022, given the upcoming midterm elections.

Sources:
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 2021); Accessing Enhanced Federal Funding for HCBS Under the American Rescue Plan, Manatt Health, SHVS, Princeton University (May 2021); Strengthening and Investing in Home and Community Based Services for Medicaid Beneficiaries: American Rescue Plan Act of 2021 Section 9817 Spending Plans and Narratives.

- **States, including California and Massachusetts, more closely examined the health disparities in their state that were illuminated by the pandemic,** including the disproportionate impacts that COVID-19 and state vaccination efforts have had on residents and communities of color.⁴ Nationally, in the first year of the pandemic, COVID-19 deaths disproportionately impacted Hispanic or Latino, Black, and American Indian/Alaskan Native (AI/AN) populations, compared to their representation in the U.S. population.⁵ It is estimated that COVID-19 reduced the 2020 life expectancy of Black and Latino populations by three to four times that of their White counterparts.⁶ While racial and ethnic disparities in COVID-19 outcomes have narrowed for some populations during 2021, they persist, particularly when adjusted for age, underscoring long-standing health inequities experienced by populations of color.⁷ Similarly, as the nation authorized and distributed three COVID-19 vaccines to the general public ages 5 and over in 2021, disparities around vaccine hesitancy and uptake became clearer.⁸ Ongoing disparities highlight the need for person- and community-centered approaches to ensuring access to services and improving state LTSS systems.
- **States continued to administer and monitor their existing pandemic-related regulatory flexibilities, and a few states made select temporary flexibilities permanent.** Most states were focused on continued implementation and monitoring of their existing flexibilities and did not request **new** pandemic-related regulatory flexibilities or modify existing ones. In limited circumstances, a few states made select PHE-related flexibilities permanent. For example, Massachusetts implemented new health care legislation (passed in January 2021) to allow for audio-only telehealth and extend full practice authority to nurse practitioners.⁹ Similarly, Pennsylvania updated its permanent telehealth policy for physical and behavioral health in September 2021, making permanent coverage for audio-only telehealth and removing originating-site limitations.¹⁰ Arkansas changed its scope-of-practice rules to allow pharmacists and pharmacy technicians to administer COVID-19 vaccines, among other things.¹¹ Manatt Health validated these findings with a selection of state officials in November 2021.¹²

State Plans for 2022

The temporary regulatory flexibilities enacted during the PHE present a unique opportunity for states to innovate new policies and care delivery approaches with the goals of minimizing barriers to care and strengthening their LTSS systems. While quantitative Medicaid data on the impact of the temporary regulatory flexibilities on consumer access and service utilization, on reducing health disparities, and on the provider and direct care workforce is sparse at this point, states are learning from their pandemic experiences and some states have begun to make temporary reforms permanent. In 2022, all states will continue to leverage American Rescue Plan funds to make strategic investments in LTSS benefits, infrastructure and programming to ensure seamless and safe access to critical services for high-risk Medicaid members. States have the flexibility to adjust their HCBS spending plans and narratives based on new data and experiences through required quarterly updates.¹³ Although the American Rescue Plan's increased federal Medicaid contribution authority ends in March, state reinvestment dollars resulting from the increased federal funding can be used to support LTSS system transformation efforts through March 2024.

Planning for HCBS Reforms Post-COVID-19

However long the PHE may last due to the emergence of new variants and vaccine hesitancy, states must be prepared to unwind low-impact flexibilities and identify high-impact flexibilities that should continue well beyond the PHE. Manatt Health and Health Management Associates, funded jointly by The SCAN Foundation, have prepared tools for federal and state policymakers to identify candidates for permanence or further evaluation based on their ability to advance person- and community-centered care, facilitate the delivery of care in the least intensive or least restrictive setting; better align Medicare and Medicaid programs; and strengthen diversity, equity and inclusion efforts. An issue brief and policymaker playbook containing these tools is forthcoming.

¹ This report was published as an update to the original report released by Manatt Health in 2020.

² [Strengthening and Investing in Home and Community Based Services for Medicaid Beneficiaries: American Rescue Plan Act of 2021 Section 9817 Spending Plans and Narratives.](#)

³ Ibid.

⁴ [Unlocking Race and Ethnicity Data to Promote Health Equity in California: Proposals for State Action \(April 2021\); Racism and Racial Inequities in Health: A Data-Informed Primer on Health Disparities in Massachusetts \(December 2021\).](#)

⁵ [Disparities in Deaths from COVID-19: Racial and Ethnic Health Disparities, CDC \(December 2020\).](#)

⁶ [Theresa Andrasfay and Noreen Goldman. Reductions in 2020 US life expectancy due to COVID-19 and the disproportionate impact on the Black and Latino populations, PNAS \(February 2021\).](#)

⁷ [Samantha Artiga et al. COVID-19 Cases and Deaths by Race/Ethnicity: Current Data and Changes Over Time, KFF \(October 2021\).](#)

⁸ Ibid.

⁹ [Bill S.2984 \(January 2021\).](#)

¹⁰ [PA Dept. of Human Services, Medical Assistance Bulletin 99-21-06 \(September 2021\); PA Dept. of Human Services, Office of Mental Health and Substance Abuse Services Bulletin OMHSAS-21-09 \(September 2021\); PA Dept. of Human Services, Telemedicine Guidelines Related to COVID-19 \(March 2020\).](#)

¹¹ [HB1134 \(March 2021\); HB1135 \(March 2021\).](#)

¹² Manatt's discussion with select state officials was part of a project, sponsored by The SCAN Foundation and in collaboration with Health Management Associates, to develop a person-centered assessment framework for federal and state policymakers to use to determine which COVID-19-related regulatory reforms advanced person- and community-centered care, ensured access to care in the least restrictive setting, better aligned the Medicare and Medicaid programs, and should be prioritized for permanence or further evaluation.

¹³ [Strengthening and Investing in Home and Community Based Services for Medicaid Beneficiaries: American Rescue Plan Act of 2021 Section 9817 Spending Plans and Narratives.](#)

About Manatt Health

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