

The Senior Advocate Alert



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January 26, 2009

2009 GA Session Vol. 1, #3

BREAKING NEWS!!!!

Federal Stimulus Package Contains Aging Funds!!

National Council on Aging (NCOA) reports the following items are included in the *American Recovery and Reinvestment Act* that is before the U.S. House of Representatives.

- **Jobs for Older Americans**: An additional \$120 million for the **Senior Community Service Employment Program (SCSEP)** in order to create 24,000 jobs.
- **Senior Nutrition**: An additional \$200 million for senior nutrition programs (**congregate and home-delivered meals**).
- **Medicaid Temporary Increase**: An additional \$87 billion to increase the federal Medicaid match rate (FMAP) to provide much-needed relief to states. Under the House bill every state will get at least a 4.9 percent increase in between Oct. 1, 2008, and Dec. 31, 2010.
- **Additional SSI Payment**: An additional \$4.2 billion for a one-time additional Supplemental Security Income (SSI) payment (an average of \$450 for an individual and \$630 for a couple).
- **Prevention and Wellness Fund**: An additional \$3 billion to fight preventable chronic diseases, including \$50 million for injury prevention.

2009 Virginia General Assembly Session

SENIORS ADVOCACY DAY – JANUARY 28, 2009

Advocacy Caravan to the General Assembly on 1/28/09.

- Senior Services is coordinating an Advocacy Caravan. Seats still available.
- Vehicles leave at 7:00 a.m. from the Center for Aging, 6350 Center Drive, Norfolk,
- Arrive 9:00 a.m. at the GA Building Richmond.
 - **Protect services** for the elderly from cuts;
 - **Legislate mandatory reporting** of financial exploitation of frail and elderly when there is suspicion by financial institutions.
 - **Prevent pre-mature nursing home placement** by preserving Medicaid payments for home and community based services.
- **Advocacy materials will be provided: Legislators, Lists, Handouts, talking points.**

CALL Cindy Creede by noon Tuesday 1/27/09 at 222-4502 if you can drive your car or need a ride. Senior Services will match you with a driver. Gas is a shared cost.

Editors Note: The Next several pages are the actual budget amendments as proposed.

Source: Virginia Department for the Aging

**Department for the Aging Member Submitted Budget Amendments to HB1600, SB850
January 23, 2009**

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
284 lh Brink	VDA	<p>Increase Funds for Aging Services Language: Q.1. Out of this appropriation, \$1,553,700 the second year from the general fund shall be provided for core services for older Virginians served by local Area Agencies on Aging. Of the funding provided, \$854,000 shall be used to address increased costs of providing home delivered meals, \$325,700 shall be provided to address increased costs of providing critical transportation to congregate meals, medical appointments, grocery shopping, and pharmacy services; and \$374,000 for increased costs of providing other home-based services.</p> <p>2. The Department for the Aging, in cooperation with Area Agencies on Aging, shall develop and set a <i>goal</i> for the Commonwealth to eliminate waiting lists for core services for older Virginians related to nutrition, transportation and in-home services by 2012</p> <p>Explanation: This amendment provides \$1.6 million from the general fund in the second year to increase funding for aging services provided through local Area Agencies on Aging. Language is also added to require the department to develop and set a <i>goal</i> for eliminating waiting lists for services by 2012.</p>	\$0	\$1,553,700 GF	\$0	\$1,553,700 GF
284 ls Howell		<p>Language: It is the <i>intent</i> of the General Assembly to eliminate waiting lists for nutrition, transportation and in-home services for older Virginians by 2012. Out of this appropriation, a) \$854,000 GF is for increased costs of providing home delivered meals; b) \$325,700 GF is for increased costs of providing critical transportation to congregate meals, medical appointments, grocery shopping, and pharmacy services; and c) \$374,000 GF is for increased costs of providing other home-based services.</p> <p>Explanation: This amendment provides \$1.6 million GF the second year for home-delivered meals, transportation costs, and home-based services and states that it is the <i>intent</i> of the General Assembly that waiting lists for these services be eliminated by 2012.</p>				

Others Aging Related Budget Amendments

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
0 8s Petersen	Rev	<p>Fiscal Impact of SB 1133</p> <p>Language: The amount of \$15,622,022,377 shown above on line 5 as the Official Revenue Estimate for the second year of the biennium shall be reduced by the estimated revenue impact of SB 1133 of the 2009 Session, contingent on passage of said legislation. All other relevant totals shall be corrected in the enrolling process.</p> <p>Explanation: This amendment directs that the revenue impact of SB 1133 be reflected in the general fund revenue estimate (impact statement has not been issued), should that legislation be enacted. SB 1133 re-institutes the estate tax for deaths occurring on or after July 1, 2009, for gross estates over \$5.0 million, unless the majority of the assets of the total estate are an interest in a closely-held business or working farm. Estate tax revenues would be dedicated to services for the elderly to include community-based programs of area agencies on aging, increased Medicaid reimbursement rates for hospitals or nursing homes that serve indigent seniors, and funding the cost of existing or additional Medicaid waivers for certain health care services and delivery systems for senior citizens.</p>			\$0	\$0
4-13.00 5s Petersen	Rev	<p>Fiscal Impact of SB 1133</p> <p>Explanation: This amendment re-institutes the estate tax for deaths occurring on or after July 1, 2009, for gross estates over \$5.0 million, unless the majority of the assets of the total estate are an interest in a closely-held business or working farm. Estate tax revenues would be dedicated to services for the elderly to include community-based programs of area agencies on aging, increased Medicaid reimbursement rates for hospitals or nursing homes that serve indigent seniors, and funding the cost of existing or additional Medicaid waivers for certain health care services and delivery systems for senior citizens. A companion amendment to Item 0 requires that the estimated revenue impact be reflected in the FY 2010 revenue estimate.</p>			\$0	\$0

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
282 1h Hamilton 282 2h O'Bannon 282 1s Lucas	HHR	Blueprint for Aging Services Language: E. The Secretary of Health and Human Resources shall convene appropriate Secretaries and state agency personnel along with individuals chosen by their respective association to represent the Virginia Association of Area Agencies on Aging, the Virginia Association of Nonprofit Homes for the Aging, Virginia Health Care Association, Virginia Hospital and Healthcare Association, Virginia Home Health Association, Virginia Association of Community Services Boards, the Alzheimer's Association, Centers for Independent Living, local government and other interested entities to develop a blueprint for addressing the oncoming large wave of older Virginians and issues related to active living in communities. The blueprint shall span to the year 2025 for planning purposes and shall be comprehensive, not limited to traditional health and human service issues, but rather broad-based issues of active, daily life in our communities with a variety of service models. The blueprint shall build upon the No Wrong Door initiative and the Older Dominion Partnership. The blueprint shall be presented to the health and human resources subcommittees of Senate Finance and House Appropriation Committees no later than November 1, 2009. Explanation: This amendment requires the Secretary of Health and Human Resources to develop a blueprint for addressing the comprehensive needs of aging Virginians with the involvement of interested parties.	\$0	\$0	\$0	\$0
306 4h Hamilton 306 8s Wampler 306 10s Houck	DMAS	Restore Funding to Nursing Homes Explanation: This amendment provides \$5.9 million from the general fund and an equal amount of federal Medicaid matching funds the second year to remove the fiscal year 2010 component of a two-year reduction in the inflation rate provided to nursing facilities implemented on July 1, 2008. This reduction was intended to cap the nursing facility Medicaid inflation update to no more than two percent. For ease of administration, language implementing the inflation cap required the Department of Medical Assistance Services to reduce direct and indirect care payment rates by 1.329 percent below the normally calculated rates. The state fiscal year 2010 component of this reduction (\$11.7 million in total funds) is inconsistent with the language contained in the introduced budget which eliminates the entire inflation update for nursing facilities and effectively represents a double cut to Medicaid payments for nursing facilities.	\$0	\$5,850,000 GF	\$0	\$5,850,000 GF

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
306 11h Sherwood	DMAS	<p>Hospice Care Requirement for Personal Care</p> <p>Language: The Department of Medical Assistance Services shall conform its requirements for hospice provided personal care to federal requirements for Medicare Conditions of Participation for beneficiaries participating in any Medicaid home and community-based waiver services. The department shall have the authority to implement this regulatory change effective July 1, 2009 and prior to the completion of any regulatory process undertaken in order to effect such change.</p> <p>Explanation: This amendment directs the Department of Medical Assistance Services remove a regulatory requirement that hospices provide 21 hours per week of personal care to Medicaid beneficiaries participating in any home and community-based waiver services. Federal hospice guidelines require that Medicaid personal care benefits may be used to the extent that the hospice would routinely use the services of a hospice patient's family in implementing a patient's plan of care. Therefore, the current regulatory language requiring hospices to provide 21 hours of care per week regardless of the assessed needs of the hospice patient is in direct conflict with the federal guidelines for a newly enacted standard in the Medicare Conditions of Participation for Hospices.</p>	\$0	\$0		
306 12h Morgan						
306 14s Hanger	DMAS	<p>Remove Regulations Regarding Hospice Care</p> <p>Language: The Department of Medical Assistance Services shall not enforce the requirement that hospices provide 21 hours per week of personal care to beneficiaries in waiver programs. The Director shall report to the Chairmen of the Senate Finance and House Appropriations Committees no later than August 1, 2009 of any conflicts with this regulation and federal law or regulation.</p> <p>Explanation: This language amendment directs the Department of Medical Assistance Services to not enforce this policy which conflicts with new federal guidelines in the Medicare Conditions of Participation for Hospices</p>			\$0	\$0
306 18h Landes	DMAS	<p>Personal Care Rates</p> <p>Explanation: This language amendment modifies a proposal included in the Governor's budget which would have increased Medicaid payments for consumer-directed personal care services by 3 percent. Funding is retained, but directed to provide an increase for all providers of personal care services. The Governor's proposal restricted the increase to consumer-directed care providers only.</p>	\$0	\$0	\$0	\$0
306 20h Cox						
306 4s Norment						

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
306 23h Cox	DMAS	<p>DMAS to Review Staffing Policy for Agency Directed Personal Care Language: The Department of Medical Assistance Services, in cooperation with personal care providers, consumers and families, shall review the current requirements that personal care procured through agency providers be provided by individuals who meet minimum qualifications as a certified nursing assistant (CNA). As part of the review, the department shall examine the feasibility of having case managers certify whether a consumer requires this minimum level of nursing care or can be supported by an individual employed by an agency provider that is not a CNA, but who can provide support with activities of daily living such as transferring, bathing, dressing, and eating in order to safely maintain the consumer in the community. The department shall report the results of this review to the Joint Commission on Health Care by September 1, 2009. Explanation: This amendment requires the department to review current staffing requirements for agency directed personal care to determine whether these requirements can be relaxed for individuals who need support with activities of daily living but who do not need basic nursing care.</p>	\$0	\$0		
306 15h Dance	DMAS	<p>Restore Services in Waiver Programs Explanation: This amendment adds \$1.3 million from the general fund and \$1.3 million from matching federal Medicaid funds the second year to restore two services, assistive technology and environmental modifications, for individuals receiving services through the Medicaid Elderly or Disabled with Consumer Direction Waiver (EDCD) and the AIDS Waiver. The introduced budget eliminated these services which were added in fiscal year 2008 to the waiver programs. Environmental modifications are used to provide an accessible environment such as home entrance ramps and bathroom modifications. These modifications can reduce the number of service hours needed by providing an accessible environment that can allow the individuals to perform functions independently or with less paid support.</p>	\$0	\$1,288,971 GF	\$0	\$1,288,971 GF
306 6s Colgan				\$1,288,971 NGF		\$1,288,971 NGF
306 19h Dance	DMAS	<p>Eliminate Proposed Cap On EDCD Waiver Program Explanation: This amendment eliminates language imposing a cap on enrollment in the Elderly or Disabled with Consumer Direction (EDCD) waiver program. Funding of \$5.9 million from the general fund and an equal amount of federal Medicaid matching funds is restored to fully fund enrollment growth in the program. The EDCD waiver serves individuals who have medical and nursing needs in the community. To place individuals who need these services on a waiting list will jeopardize their health and ability to avert nursing home placement.</p>	\$0	\$5,860,700 GF	\$0	\$5,860,700 GF
306 7s Colgan				\$5,860,700 NGF		\$5,860,700 NGF

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
306 17h Brink 306 3s Whipple	DMAS	Eliminate Max Per Person Expenditure Cap for Waiver Services Explanation: This amendment restores \$9.2 million the second year from the general fund and \$9.2 million in federal matching Medicaid funds and eliminates language which would have changed the method of calculating the cost effectiveness of Medicaid home and community-based waiver services. The introduced budget proposes an individual cost basis for waivers in which an individual's cost under the waiver cannot exceed the average cost of institutional care. Currently, the waivers operate on an aggregate cost basis in which the cost for an individual can exceed the average cost of institutional care as long as the average cost of a waiver for all individuals in that waiver, in aggregate, does not exceed the average institutional cost. Implementation of an individual cap on waiver services places individuals with significant disabilities at risk of unnecessary and unwanted institutionalization, at a time when the Commonwealth's stated goal is to strengthen Virginia's community-based system of support.	\$0	\$9,187,275 GF	\$0	\$9,187,275 GF
				\$9,187,275 NGF		\$9,187,275 NGF

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
306 22h Hamilton	DMAS	<p>Elderly and Disabled with Consumer Direction Waiver Cap</p> <p>Language: 1. The Department of Medical Assistance Services shall seek federal approval for the necessary changes to the 1915(c) home and community-based waiver, known as the Elderly or Disabled with Consumer Direction (EDCD) program, to cap the enrollment at 15,250 slots for a 12-month period from July 1, 2009 until June 30, 2010.</p> <p>2. By May 31, 2009, and on an ongoing basis, the department shall review EDCD waiver participants and take steps to terminate waiver enrollment for any enrollee who has not actually utilized waiver services during the previous thirty days, without good cause. After consultation with stakeholder groups and other interested parties regarding policies related to a waiting list, the department shall develop, implement and maintain a statewide waiting list. Criteria for the waiting list shall include the following provisions: (i) current and potential enrollees in the Virginia Acute and Long Term Care Integration and Money Follows the Person programs and eligible persons leaving acute, institutional or rehabilitative care settings are a priority and will automatically receive a slot; (ii) eligible persons without caregivers will be given priority placement on the waiting list; and (iii) all other eligible individuals will be enrolled in the EDCD waiver as slots are available on a first-come-first-served basis statewide. The department shall have the authority to implement this change effective July 1, 2009, and prior to the completion of any regulatory process undertaken in order to effect such change. The department shall have emergency regulatory authority to implement this change.</p> <p>Explanation: This amendment modifies language in the introduced budget which caps enrollment in the Medicaid Elderly or Disabled with Consumer Direction (EDCD) waiver program beginning July 1, 2009. Language is changed to clarify that the cap is in effect only until June 30, 2010 and is not expected to be permanent. Language also requires the department to purge the EDCD rolls of individuals who are not actually receiving services unless they have a good cause for not receiving services such as the inability to secure service providers. The language includes provisions related to the development and management of the waiting list, which would be designed with input from stakeholders and interested parties, the priority of certain individuals to receive a slot, and the management of a statewide waiting list.</p>	\$0	\$0	\$0	\$0
306 5s Howell		<p>Explanation: This language amendment modifies the proposed implementation of a cap on enrollment in the Elderly or Disabled Waiver with Consumer Direction (EDCD) Program. Since its implementation, the EDCD waiver has operated without a waiting list. Because the cap on slots has been proposed due to a fiscal crisis which is not expected to be permanent, any cap imposed should be limited to a specified period of time, after which the cap will expire. The amendments also require DMAS to purge from the EDCD rolls individuals not actually using waiver services unless they have good cause for not using such services (e.g., inability to secure service providers.) The amendment also includes language relating to the development and management of the resulting waiting list. The waiting list would be designed with input from the interested parties and stakeholders, include certain priorities for people at imminent risk of institutionalization, and be directly managed by DMAS as a statewide waiting list. Finally, unnecessary regulatory authority is eliminated.</p>				

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
306 21h Bulova	DMAS	<p>Medicaid Reimbursement for Adult Day Health Care Explanation: This amendment provides a \$514,500 from the general fund and a like amount of federal Medicaid matching funds in the second year to increase the reimbursement rate for adult day health care during the last quarter of the 2008-10 biennium. Adult day health care is much less expensive than alternative care in a nursing facility for which these clients qualify. Providers of adult day health care report a gap of \$18.13 per client on average between actual costs and Medicaid reimbursement, which must be made up through contributions from individuals, churches, corporations, and foundations. This amendment will increase the statewide rate paid for Medicaid adult day health care services from \$50.61/day to about \$60.00/day in Northern Virginia and from \$46.11/day to about \$56.00/day in the rest of the state. With the increase, providers will continue to need to leverage private dollars to meet projected costs.</p>	\$0	\$514,500 GF	\$0	\$514,500 GF
306 9s Quayle		<p>Explanation: This amendment provides \$514,500 GF the second year and an equal amount of federal Medicaid matching dollars for an increase in the rates paid for adult day care health centers. Funding is designed to close the gap between the Medicaid-funded adult health reimbursement rates and the actual cost of services as noted by JLARC in a 2005 report.</p>		\$514,500 NGF		\$514,500 NGF
306 8h Hamilton	DMAS	<p>Federal Medicaid Relief Funds to Restore Provider Rates Language: Any unbudgeted amount of general fund savings which may result from the increase in the federal matching assistance percentage (FMAP) of the Medicaid expenditures shall be used to restore funding specifically identified as budget reduction strategies in the 2009 Executive Budget Document and which appear in House Document No. 1 in Item 306 (Medicaid Program Services). Priority should be given to those items which limit access to services by reducing provider rates and delaying payments. Explanation: This amendment adds language directing that any unbudgeted federal Medicaid relief received as an increase in the federal match rate for Medicaid be used to restore cuts contained in the introduced budget and described in the 2009 Executive Budget Document in the Department of Medicaid Assistance Services related to Medicaid provider reimbursements.</p>	\$0	\$0	\$0	\$0
306 16s Wampler		<p>Enhanced Federal Medicaid Funding (Restore Medicaid Funding) Language: Contingent upon the enactment of federal fiscal relief, any unbudgeted amounts of general fund savings which may result from the increase in the federal matching assistance percentage (FMAP) of the Medicaid expenditures shall be used to restore budget reductions in Item 306 (Medicaid). Priority should be given to those items that limit access to services by reducing provider rates and delaying payments.</p>				
306 21s Hanger		<p>Explanation: This amendment restores any reductions to Medicaid with revenues from enhanced federal Medicaid revenues should federal fiscal relief become law.</p>				
306 22s Houck						

Patron / Item #	Agcy	Title / Program / Purpose Explanation	House		Senate	
			FY 08-09	FY 09-10	FY 08-09	FY 09-10
316 3h Brink	Grant to Local	Older Adults Mental Health Services Support Program Explanation: This amendment adds \$250,000 the second year from the general fund to supplement funding from the federal Community Mental Health Services Block Grant for the Older Adults Facilities Mental Health Support Program (RAFT) which began in 2007 as a part of the state mental health hospital discharge and diversion program. Since its inception, costs of care have increased in assisted living. Without this additional funding, only 13 of the 20 geriatric individuals originally projected to be served through assisted living will receive assistance. The program has successfully moved six individuals into local assisted living facilities and nursing homes to date with the placement of the remaining clients (20 in nursing homes plus 13 in assisted living) to be achieved by the end of fiscal year 2009. The program is saving institutional costs and promoting quality care for older adults with mental illness in the least restrictive environment.	\$0	\$250,000 GF	\$0	\$250,000 GF
316 5s Howell		Explanation: This amendment adds \$250,000 GF the second year for the Regional Older Adult Facilities Mental Health Support Team pilot project. Currently, the project receives \$1.0 million to divert elderly individuals with mental illness from placement in Eastern State Hospital. Funding will be used for a payment differential to address additional per patient costs.				
341 2s Wampler	DSS	Increase Auxiliary Grant Payments by 5% Explanation: This amendment provides \$3.5 million GF the second year for a \$55 monthly increase in the Auxiliary Grant Program, increasing the maximum payment to \$1,167.			\$0	\$3,515,160 GF
344 9h Phillips	DSS	Increase Funds for Virginia Food Banks Explanation: This amendment provides an additional \$500,000 from the general fund in the first year to the Federation of Virginia Food Banks for the purchase of food to be distributed through food banks across the Commonwealth. The introduced budget provided \$1.0 million from the general fund in the first year for food banks. This increases the amount because of the dramatic increase in need due to the recession.	\$500,000 GF	\$0		
493 25h Tyler	Non State	Southside Senior Citizens, Inc. Explanation: This amendment provides \$20,000 the second year from the general fund to the Southside Senior Citizens, Inc., which is located in Brodnax, Virginia. The funding will be used to purchase air-conditioned van transportation service for seniors to travel to and from the center. A portion of the funds will also defray the costs of a ceramics instructor, cook, and a secretary. The center currently serves about 300 seniors in the community.	\$0	\$20,000 GF		

KEY DATES THIS WEEK: Wednesday 1/28/09: Seniors Day

KEY WEBSITES: **Track legislation and contact legislators:**

o <http://www.ssseva.org/advocacy/representatives.shtml>

o http://www.vaaaa.org/legislative_updates/

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