

The 2022-23 Budget:

Update on Home- and Community-Based Services Spending Plan

FEBRUARY 2022

Summary. As a part of the 2021-22 budget, the state was required to submit a package of home- and community-based services (HCBS) enhancements—known as the HCBS spending plan—to the federal government as a condition of drawing down additional federal funds resulting from a temporary 10 percentage point increase to the federal Medicaid match rate. California’s plan included \$3 billion in HCBS enhancements (which would be matched by an additional \$1.6 billion in standard Medicaid funds, totaling \$4.6 billion). The 2021-22 budget included provisional language that allowed the administration to allocate and expend funds to implement the HCBS enhancements through the annual budget process or written midyear notifications to the Legislature. On January 4, 2022, the federal government conditionally approved the state’s HCBS spending plan, allowing the state to move forward with implementing each HCBS enhancement (approval is considered conditional given that final amounts and program details could change slightly over time and those changes would require federal approval). A number of the approved HCBS enhancements support the implementation of various state plans, including the Master Plan for Aging and Department of Development Services’ (DDS) rate model implementation. The Legislature recently approved the allocation and expenditure of funds primarily based on 2021-22 estimates to implement HCBS enhancements through the midyear notification process. Additionally, the Legislature requested that the administration keep them up to date on any fiscal and programmatic changes to the HCBS spending plan that are included in the required quarterly reports to the federal government. In this post, we summarize the conditionally approved HCBS enhancements and discuss opportunities for Legislative oversight.

Background

Temporary Increase to Medicaid Federal Share of Cost for HCBS Programs and Services.

Under the American Rescue Plan Act of 2021, the federal government increased the federal medical assistance percentage (FMAP) by 10 percentage points for Medicaid-funded HCBS services and programs provided from April 1, 2021 through March 31, 2022. (The FMAP represents the federal government’s share of cost for Medicaid services eligible for cost sharing.) States have discretion about whether to claim the additional funding (which we refer to throughout this post as the “increased FMAP funding”) for some or all of its HCBS expenditures during the spending period, provided they meet certain program requirements. For example, states cannot replace existing state funding for HCBS programs and services with the increased FMAP funding; rather, the increased FMAP funding must be spent on new—or enhanced—programs that are in addition to existing state HCBS funding (this and other requirements are discussed in the next section of this post). The 2021-22 budget assumed that the state would draw down \$3 billion in increased FMAP funding, which reflects the estimated maximum amount of federal funding California could claim from the increased FMAP.

States Required to Spend an Amount of State Funding Equivalent to the Increased FMAP Funding on New HCBS Expansions and Enhancements.

The state’s decision to claim increased FMAP funding reduces its share of cost for existing HCBS services by an equal amount (in California’s case, \$3 billion). The federal government requires states to “reinvest” these freed-up state funds on expanded, enhanced, or strengthened HCBS services (which we refer to throughout this post as “HCBS enhancements”).

These HCBS enhancements must supplement and build upon existing HCBS activities in place as of April 1, 2021 in either Medicaid-funded or non-Medicaid-funded services and programs. Additionally, states are given until March 31, 2024 to fully expend the required amount of funding on HCBS enhancements. After March 31, 2024, if it is decided that the program enhancements should continue, California would need to provide funding from an alternative state or local fund source to do so.

The 2021-22 Budget Included Provisional Language to Assist in Implementation of HCBS Spending Plan Following Federal Approval.

The federal government released guidance to states on allowable HCBS enhancements and the overall claiming process for increased FMAP funds in May 2021. At the time, the administration estimated that state could draw down a total of \$3 billion in increased FMAP funds. Based on this estimate, the Legislature and administration agreed upon a package of over 25 HCBS enhancements, which were initially submitted to the federal government in July 2021. Given the uncertain timing of when the federal government would approve the state's HCBS spending plan, and it being unknown whether changes to the state's plan would be needed based on federal feedback, the 2021-22 budget included provisional language that allowed the administration to allocate and spend the \$3 billion of estimated increased FMAP funds on federally approved HCBS enhancements through the annual budget process or written midyear notifications to the Legislature.

Status Update on HCBS Spending Plan Approval and Implementation

State Received Conditional Federal Approval of Entire HCBS Spending Plan in January 2022.

On September 3, 2021, the federal government responded to the state's initial HCBS spending plan (submitted in July 2021). At the time, the federal government only fully approved 13 of the HCBS enhancements and denied one initiative. (The initiative that was denied was a \$2 million proposal to improve broadband access and disaster readiness in nursing home facilities and expand the Small Home nursing facility pilot.

We understand that it was denied because HCBS enhancements may not include improvements in institutional settings like nursing homes. Instead, the administration proposed to use the \$2 million to expand the Long-Term Services and Supports Data transparency proposal included in the HCBS spending plan.) For the remaining HCBS enhancements, the federal government requested the state submit additional clarifying information, primarily to confirm that the proposed activities are allowable under the federal guidance. (Refer to *The 2021-22 California Spending Plan: Home- and Community-Based Services Spending Plan* for additional information on the September 2021 response from the federal government.) The administration submitted revised HCBS spending plans in September 2021 and October 2021.

On January 4, 2022, the federal government notified the state that it conditionally approved all of the state's proposed HCBS enhancements, which are summarized in **Figure 1**. The total cost of the HCBS enhancements is estimated to be \$4.6 billion (\$3 billion increased FMAP funds and \$1.6 billion additional federal funds for enhancements that are also eligible to draw down the standard federal Medicaid match). In addition to the initiative that was denied after the initial submittal of the plan, we understand that the state was required to make one other substantive change to the originally submitted HCBS spending plan to comply with federal expenditure rules. Specifically, the federal government would not allow increased FMAP funds to be used for an "operating reserves" component of the Community Care Expansion (CCE) initiative. As a result, the conditionally approved HCBS spending plan shifts \$295 million increased FMAP funds from the CCE initiative to further offset the outyear General Fund costs associated with the DDS rate model implementation. (The state still plans to fully fund the CCE initiative at the agreed upon total fund levels [\$805 million] with General Fund and other federal funds.) We note that many of the HCBS enhancements included in the approved plan have not been established in statute and will, instead, be established administratively. For those programs that have been established in statute, they are done so at a high level, leaving many implementation details up to the administration.

Figure 1

Summary of Conditionally Approved HCBS Spending Plan

(In Millions)

Conditionally Approved HCBS Spending Plan Initiatives	Total Funds ^a
Workforce: Retaining and Building Network of Home- and Community-Based Direct Care Workers	
In-Home Supportive Services (IHSS) Career Pathways. Provide specialized training opportunities to IHSS providers.	\$295
IHSS HCBS Care Economy Payments. Provide one-time \$500 payments to IHSS providers that worked at least two months between March 2020 to March 2021.	275
Direct Care Workforce (Non-IHSS) Training and Stipends. Provide specialized training opportunities to non-IHSS HCBS providers.	150
Providing Access and Transforming Health Funds for Homeless and HCBS Direct Care Providers. Expand homeless system of care and create an effective pre-release care for justice-involved populations.	100
Increasing Home- and Community-Based Clinical Workforce. Increase the number of home- and community-based clinical care providers for individuals with disabilities and aging adults.	75
Non-IHSS HCBS Care Economy Payments. Provide one-time \$500 payments to non-IHSS HCBS care providers that worked at least two months between March 2020 to March 2021.	13
Traumatic Brain Injury (TBI) Program. Expand the capacity of existing TBI sites and stand up new TBI sites.	5
HCBS Navigation	
Language Access and Cultural Competencies Orientations and Translations. Provide funds to translate Department of Developmental Services (DDS) documents, coordinate and streamline interpretation and translation services, and ensure culturally appropriate translations.	\$46
CalBridge Behavioral Health Pilot Program. Hire trained behavioral health navigators in emergency departments to screen and refer patients to mental health or substance use disorder programs.	40
Dementia Aware and Geriatric/Dementia Continuing Education. Develop a cognitive health assessment tool and provide geriatric/dementia trainings to health care providers.	25
No Wrong Door/Aging and Disability Resource Connections (ADRC). Support ADRC program operations, including data collection and sharing practices.	5
HCBS Transitions	
Housing and Homelessness Incentive Program. Provide incentive funds to Medi-Cal managed care plans to address homelessness and keep beneficiaries housed.	\$1,300
Community Care Expansion Program. Acquire, rehabilitate, or construct adult and senior care facilities.	53 ^b
Community-Based Residential Continuum Pilots for Vulnerable, Aging, and Disabled Populations. Provide medical and supportive services to individuals residing in permanent supportive housing and congregate care settings.	298
Eliminating Assisted Living Waiver Waitlist. Eliminate Assisted Living Waiver waitlist by increasing waiver slots by 7,000.	255
Services: Enhancing HCBS Capacity and Models of Care	
Developmental Services Rate Model Implementation. Implement rate models recommended by the 2019 Rate Study.	\$1,260 ^b
Social Recreation and Camp Services for Regional Center Consumers. Provide camping services, social recreation activities, educational therapies, and nonmedical therapies for eligible individuals who have a developmental disability.	121
Older Adults Resiliency and Recovery. Provide funding to various older adult programs, including food assistance, legal services, employment services, and behavioral health line.	106
Contingency Management. Implement treatment pilot for stimulant use disorder.	59
Coordinated Family Support Services. Create pilot to assist families in coordinating the receipt and delivery of services for DDS consumers living in the household.	42
Enhanced Community Integration for Children and Adolescents. Provide local grants to develop integrated community-based social recreational activities for children with and without developmental disabilities.	13
Adult Family Homes for Older Adults. Create Adult Family Homes pilot that places older adults with a family.	9
Alzheimer's Day Care and Resource Center. Provide dementia-capable services at licensed Adult Day and Adult Day Health centers.	5

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Conditionally Approved HCBS Spending Plan Initiatives	Total Funds ^a
HCBS Infrastructure and Support	
Access to Technology for Seniors and Persons With Disabilities. Increase access to technology for older adults and adults with disabilities.	\$50
Senior Nutrition Infrastructure. Provide capacity and infrastructure improvement grants to senior nutrition program vendors.	40
Modernize Regional Center Information Technology Systems. Conduct initial planning process to update the regional center fiscal system and implement a statewide Consumer Electronic Records Management System.	8
Long-Term Services and Supports (LTSS) Data Transparency. Create LTSS Data Dashboard linked with statewide nursing home and HCBS utilization, quality, demographics, and cost data.	4
Total	\$4,649
^a Reflects total funding levels as proposed under the HCBS spending plan conditionally approved by the federal government on January 4, 2022. Per federal guidance, the state must spend all of these funds by March 31, 2024. ^b Final HCBS spending plan shifted \$295 million from Community Care Expansion to the Developmental Services Rate Model Implementation initiative. The state will still cover the total costs of the Community Care Expansion initiative proposed under the 2021-22 budget with General Fund and other federal funds. HCBS = home- and community-based services.	

Legislature Recently Approved Administration’s Request to Allocate and Expend Estimated Increased FMAP Through Midyear Notification Process. As a result of the conditional federal approval, the state can begin to allocate and expend increased FMAP funds to implement the HCBS enhancements. In compliance with the provisional budget bill language, through a midyear budget request, the administration notified the Legislature of its intent to (1) draw down the estimated \$3 billion of increased FMAP funds, (2) allocate the increased FMAP funds to implement federally approved HCBS enhancements, and (3) draw down additional federal funds for HCBS enhancements that are eligible for the standard Medicaid federal match. The Joint Legislative Budget Committee (JLBC) approved the administration’s request. The administration’s estimate of total increased FMAP funds and HCBS enhancement costs continue to be based on 2021-22 estimates. The provisional budget language continues to require the administration to go through the annual budget process or provide midyear notification to the Legislature to modify the budgeted 2021-22 funding and expenditure levels based on updated caseload and utilization data. (This provisional language is also included in the proposed 2022-23 budget.) Additionally, as a part of the recent approval of the administration’s midyear notification, JLBC requested the administration brief the Senate and Assembly Budget Committees of any programmatic and fiscal changes to the HCBS spending plan when the state submits the federally required quarterly updates.

Federally Required HCBS Quarterly Report Due Prior to Completion of 2022-23 Budget Process. The federal government requires states to submit quarterly reports that provide up-to-date information on (1) the amount of increased FMAP funds the state has claimed and/or anticipates to claim between April 1, 2021 and March 31, 2022; (2) implementation progress of approved HCBS enhancements; (3) anticipated and/or actual expenditures for HCBS enhancements; and (4) modifications to the state’s planned HCBS enhancements, including creation of new HCBS enhancements. Given that the next quarterly report is due on April 2022, the administration will be required to provide updated funding and expenditure estimates and implementation updates to the federal government prior to the completion of the 2022-23 budget.

Consider Ways to Ensure Legislative Oversight Over Implementation of HCBS Spending Plan. As previously mentioned, JLBC requested that the administration keep the Senate and Assembly Budget Committees up to date on proposed programmatic and funding changes to the HCBS spending plan that are reported to the federal government through the quarterly reports. In addition to these requested updates, the Legislature could consider ways to use the budget process to further strengthen Legislative oversight of the implementation and outcomes of the HCBS spending plan. For example, now that the federal government has conditionally approved the HCBS spending plan, the Legislature could

consider adopting legislation that establishes or provides more detail on the intended program structure of longer-term HCBS enhancements. Additionally, the Legislature could consider adopting reporting requirements with regards to tracking program outcomes. This would allow the

Legislature to assess the effectiveness of certain HCBS enhancements in order to make decisions about whether to use state funding to continue the initiative after the enhanced federal funding is expired.

LAO PUBLICATIONS

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