



State of Indiana

*Indiana Family and Social Services Administration*

**The Indiana Family and Social Services Administration's (FSSA) response to CMS request for additional information regarding Indiana's Spending Plan for Implementation of the American Rescue Plan Act of 2021, Section 9817**

***State of Indiana***

*Submitted to The Centers for Medicare and Medicaid Services*

**October 07, 2021**



Eric Holcomb, Governor  
State of Indiana

***Indiana Family and Social Services Administration***

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## **Transmittal Letter**

October 07, 2021

The Indiana Family and Social Services Administration (FSSA) is submitting the following letter in response to the request for additional information received from CMS on September 30, 2021 in the partial approval letter. FSSA is grateful for CMS' comprehensive review of our initial state spending plan, which CMS stated met the requirements set forth in the May 13, 2021, CMS State Medicaid Director Letter (SMDL) #21-003 and was granted partial approval. FSSA's designated point of contact for the quarterly spending plan and narrative submissions will continue to be Allison Taylor, the State Medicaid Director.

For those sections of Indiana's proposed spending plan for which CMS did not ask any follow up questions in the CMS Letter, Indiana assumes that we are approved to proceed to implementation and will update CMS through the quarterly spending plan process.

FSSA looks forward to CMS' review of our response, which directly answer the "Additional Information Requested" section of the CMS letter and can be found below under "Responses to CMS Questions." We hope that your review will result in full approval of the programs contemplated in Indiana's Spending Plan for Implementation of the American Rescue Plan Act of 2021, Section 9817. We believe we will be able to use the enhanced FMAP funding to improve the continuum of HCBS and enable improved health and well-being outcomes for Hoosiers.

Sincerely,

Allison Taylor  
Medicaid Director, Office of Medicaid Policy and Planning  
Indiana Family and Social Services Administration

# Responses to CMS Questions

➤ *Activities Targeted at Providers and Caregivers that Deliver Services that are listed or could be listed under Appendix B of SMDL #21-003*

Q: “Clearly indicate whether the following activities are targeted at providers delivering services that are listed in Appendix B of the SMDL or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit) or caregivers of individuals receiving services that are listed in Appendix B or that could be listed in Appendix B:

- Provider Stabilization Grant Program;
- Workforce Stabilization Grant Program;
- Caregiver Support Grant Program;
- Recruitment and Retention of Workforce; and
- Address Social Needs of Members Receiving HCBS, specifically the workforce strategies to “address non-clinical barriers by building a sustainable workforce that increases capacity and access to care at the least restrictive setting.”

If the activities are not directly related to the services listed in Appendix B or services that could be listed in Appendix B, please explain how the activities enhance, expand, or strengthen HCBS under Medicaid.”

**FSSA Response: FSSA confirms that the Provider Stabilization Grant Program, Workforce Stabilization Grant Program, and the Caregiver Support Grant Program will be targeted to provider types and paid family caregivers as listed or could be listed in Appendix B of SMDL #21-003. For the workforce activities contemplated by Recruitment and Retention of Workforce and Address Social Needs of Members Receiving HCBS, FSSA confirms that these are not listed in Appendix B, but we confirm that these activities support HCBS as we need more workers to meet member needs and growing member demand. These administrative efforts will help build and retain the HCBS workforce.**

➤ *Indiana’s Commitment to Expanding In-Home Private Duty Nursing*

Q: “Confirm that ARP section 9817 funds will only be used to pay for private duty nursing services delivered in the home.”

**FSSA Response: FSSA confirms that ARP section 9817-funded Private Duty Nursing will only occur in a home-based setting, which excludes all congregate settings, including assisted living.**

➤ *Capital Investment Costs*

Q: “Clearly indicate whether your state plans to pay for capital investment costs as part of any of the following: the Address Social Needs of Members Receiving HCBS activity, specifically the work with the Indiana Housing and Community Development authority, and the Corporation for Supportive Housing to build the pool of accessible, affordable housing across the state, build on the community integration set-aside, and build on the Moving Forward Project. Capital investment costs are permissible uses of funds to enhance, expand, or strengthen HCBS under section 9817 of the ARP. However, states must demonstrate how capital investments would enhance, expand, or strengthen HCBS and ensure that capital investments will result in settings that are fully compliant with the home and community-based settings criteria. Further, approval of capital investment costs in ARP section 9817 spending plans and narratives does not authorize such activities for FFP.”

**FSSA Response: Since capital investment costs are not available for FFP, FSSA does not plan to pursue activities that incur such costs under the programs contemplated by Address Social Needs of Members Receiving HCBS activity, specifically the work with the Indiana Housing and Community Development authority and the Corporation for Supportive Housing.**

➤ *Room and Board*

Q: “Confirm that the state will not pay for room and board (which CMS would not find to be a permissible use of funds) as part of the Address Social Needs of Members Receiving HCBS activity.”

**FSSA Response: FSSA confirms the State will not pay for room and board as part of the Address Social Needs of Members Receiving HCBS activity.**

➤ *Clarification that Expedited Eligibility Activities Will Not Impose Stricter Standards*

Q: “Clarify that the Expedited Eligibility activity will not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services that were in place on April 1, 2021.”

**FSSA Response: FSSA confirms expedited eligibility will not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.**

➤ *Legal Aid to Enhance HCBS*

Q: “Explain how the Legal Aid activity enhances, expands, or strengthens HCBS under Medicaid.”

**FSSA Response: We believe the Legal Aid activities could enhance HCBS under Medicaid to help members navigate the complicated and disconnected process of living**

**at home. FSSA proposes a comprehensive assessment of legal aid services currently provided by FSSA Aging partners to first identify and recommend ways to integrate elder justice practices with service options planning.**

➤ *Improving Internet Connectivity to Enhance HCBS*

Q: “Clearly indicate whether your state plans to pay for ongoing internet connectivity costs as part of the following activities:

- Caregiver Support Grant Program;
- Telehealth Expansion for Individuals with Intellectual and Developmental Disabilities (I/DD); and
- Social Isolation Support through Technology.

Ongoing internet connectivity costs are permissible uses of funds to enhance, expand, or strengthen HCBS under section 9817 of the ARP. However, states must demonstrate how ongoing internet connectivity costs would enhance, expand, or strengthen HCBS. Further, approval of ongoing internet connectivity costs in ARP section 9817 spending plans and narratives does not authorize such activities for FFP.”

**FSSA Response: FSSA affirms our belief that internet connectivity would enhance, expand and strengthen HCBS. These activities and grants programs are intended to be designed as pilots to help inform FSSA whether such social isolation support and telehealth expansion activities are effective. If determined to be effective, then FSSA will follow the waiver amendment process to formally add the service to the waiver and develop a methodology to support internet access specific and limited to the approved technology.**

➤ *Clarification that HCBS Rating Methodology Activities Will Not Reduce Payment Rates*

Q: “Under the HCBS Rating Methodology activity, clearly indicate the state’s proposal to update the state’s rate methodology and promote value-based purchasing to include sufficient detail to demonstrate that the state’s proposal will not reduce payment rates to HCBS providers less than those in place as of April 1, 2021.”

**FSSA Response: FSSA shares the same value of enhancing the HCBS ecosystem in Indiana. Our rating methodology activity will include a detailed evaluation of current rates and consider how best to align rates across waivers and State Plan services. The rating methodology work can be performed in a manner that will assure that rates will be maintained at or above the rate levels in place as of April 1, 2021. However, if the rating analysis does not prove parity, we would appreciate the latitude for discussion with CMS to justify any minor change to April 1, 2021 rate levels that would improve the integrity of rating for the ecosystem.**

➤ *Clarification Regarding Indiana’s Proposed Plan to Update Institutional Networks*

Q: “Under the state’s proposed activity to Update Institutional Networks, clearly indicate whether the state intends to use ARP section 9817 funds to reduce multiple occupancy rooms, to manage closure of facilities in regions with low nursing facility occupancy levels, for assistance in maintaining or opening facilities in regions projected to have future bed capacity challenges, and for bed closures in institutional settings. Please note that payments solely for these purposes are not approvable under ARP section 9817.”

**FSSA Response: FSSA acknowledges CMS guidance that payments solely for these purposes are not approvable under ARP section 9817. However, it is FSSA’s strong belief that a thoughtfully designed program to reduce nursing facility reliance and to increase HCBS is consistent with the spirit of ARP section 9817, and we respectfully request further clarification from CMS regarding what other activities or uses of funds may be allowable.**

➤ *Indiana’s Commitment to Ensuring that Transitioned Settings are Fully Compliant by the End of the Transition Period*

Q: “Under the grant opportunities to incentivize institutional and RCAP settings to convert to HCBS settings and 14(c) settings to transition to community employment programs within the state’s activity to Update Institutional Networks Clarify, clearly indicate that the state will assure that these settings will be fully compliant with the settings criteria by the end of the transition period. Additionally, settings that are in the same building as a public or private institution or on the same grounds of or adjacent to a public institution, are considered presumptively institutional under the HCBS settings final rule (42 CFR 441.301(c)(5)). For newly constructed settings that are presumptively institutional, states should follow guidance released in the CMCS Informational Bulletin (CIB) dated August 2, 2019 regarding Heightened Scrutiny Review of Newly Constructed Presumptively Institutional Settings.”

**FSSA Response: FSSA confirms our intent to help RCAP providers and 14(c) settings become compliant with the HCBS Settings Rule by the end of the transition period in order to be eligible to become certified Medicaid waiver providers as they convert to HCBS settings.**