

SENATE OF VIRGINIA

Senate Finance Committee

Emerging HHR Issues:

- 1) Overview of Supreme Court's Decision**
- 2) Update on DOJ Settlement Agreement**

July 16, 2012



SENATE FINANCE COMMITTEE

Overview of Supreme Court's Decision



Questions Before the Supreme Court

- Does Congress have the power under Article I of the Constitution to mandate that virtually every individual have health insurance coverage?
- Does the Anti-Injunction Act bar pre-enforcement challenges to the Affordable Care Act's (ACA) individual coverage mandate?
- Does the provision that cuts off Medicaid funding in states that do not expand their Medicaid programs as contemplated by the ACA exceed the federal government's ability to compel states to enact or administer a federal regulatory program?
- If Congress does not have the power to enact a provision of the ACA, can its other provisions be severed from the invalid provision and take effect?

Source: Division of Legislative Services.



Supreme Court Decision

- Does Congress have the power under Article I of the Constitution to mandate that virtually every individual have health insurance coverage? **NO (under the Commerce clause) but YES (under Congress' power to tax)**
- Does the Anti-Injunction Act bar pre-enforcement challenges to the ACA's individual coverage mandate? **NO. Court can decide issue.**
- Does the provision that cuts off Medicaid funding in states that do not expand their Medicaid programs as contemplated by the ACA exceed the federal government's ability to compel states to enact or administer a federal regulatory program? **YES. Secretary cannot withhold all Medicaid funds if state does not participate; Medicaid expansion optional.**
- If Congress does not have the power to enact a provision of the ACA, can its other provisions be severed from the invalid provision and take effect? **NOT RELEVANT since individual mandate upheld.**



Implications of Supreme Court Ruling

- With the exception of the Medicaid expansion, all of the other provisions of the ACA were upheld.
 - State must establish an exchange or one will be operated by federal government;
 - Insurance changes will stand;
 - Guaranteed issue (i.e., no health underwriting);
 - No lifetime limits on coverage;
 - Policies can only be rescinded for fraud/misrepresentation;
 - Plans may not impose pre-existing condition exclusions;
 - Children may remain through age 26 on parents plan; and
 - Preventive services must be covered without copayments.
 - Primary care physician payments under Medicaid will increase to 100 percent of Medicare.



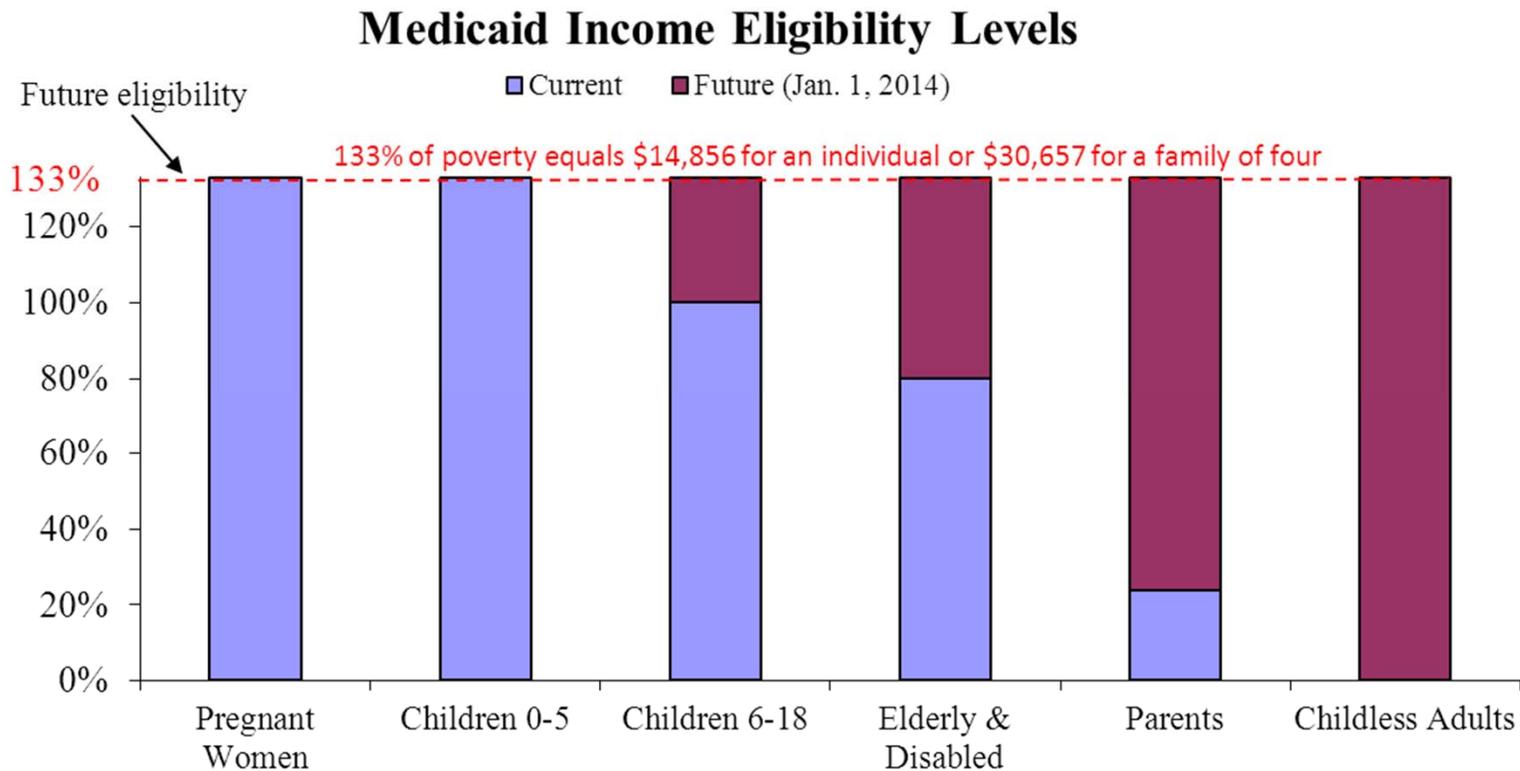
What does it mean for Virginia Medicaid?

- The major decision the Commonwealth now faces is whether to expand Medicaid eligibility up to 133 percent of poverty (138 percent with income disregard).
- DMAS is in the process of revising its estimate of the cost of expanding Medicaid.
- The 2012-14 budget includes:
 - \$44.3 million GF to cover 48,724 children who are eligible but not enrolled in Medicaid; and
 - \$1.1 billion NGF to cover approximately 300,000 children, parents, and childless adults.



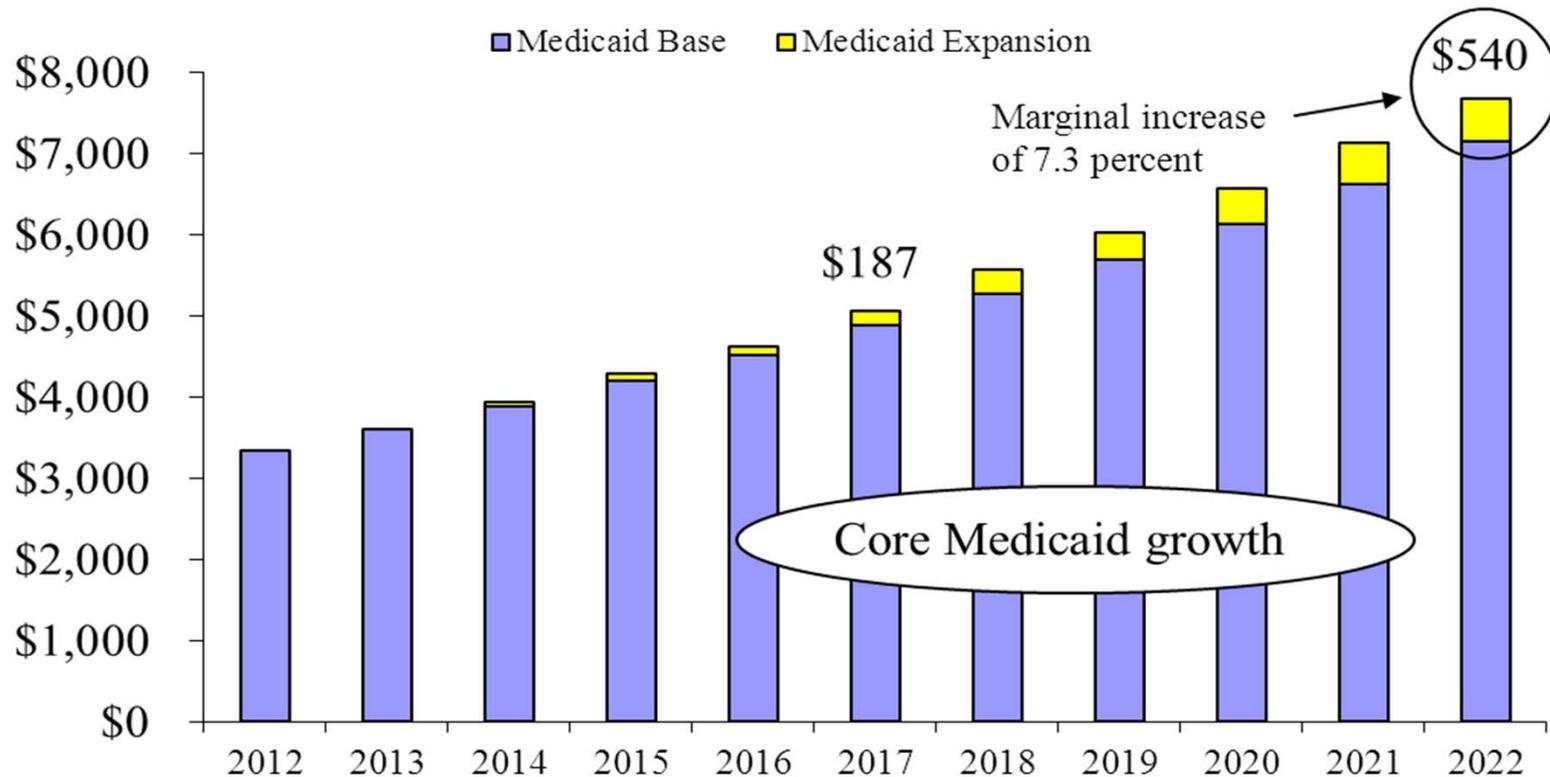
Impact of Medicaid Expansion

- In 2010, an additional 348,489 Virginians were expected to enroll in Medicaid, including 48,724 children who are currently eligible but not enrolled in the program.



2010 Projection of Medicaid Costs

Medicaid and Federal Health Care Reform
(Dollars in millions)



Are there any cost offsets?

- The 2012-14 budget includes \$209 million GF for indigent health care costs provided at VCU Health System and UVA Medical Center.
- Community services boards receive state funding to service individuals who may be eligible for Medicaid if coverage is expanded.
- In 2010 hospitals provided more than \$500 million in uncompensated care to serve low-income, uninsured Virginians.



Update on DOJ Settlement Agreement



DOJ Settlement Agreement

- Some finer points of the agreement are still being negotiated.
- The Commonwealth is proceeding to implement the major provision of the “tentative” agreement.
- The agreement requires the Commonwealth to develop and provide specific community services in order *“To prevent the unnecessary institutionalization of individuals with ID/DD and to provide them opportunities to live in the most integrated settings appropriate to their needs consistent with their informed choice,”*.
- The target population of the agreement is individuals with ID/DD who:
 - Reside at one of the state’s intellectual disability training centers;
 - Meet the criteria for the Intellectual Disability (ID) waiver or Developmental Disability (DD) waiver wait lists; or,
 - Reside in a nursing home or intermediate care facility (ICF).



Cost of DOJ Settlement Agreement

- In 2011 and 2012 the General Assembly provided \$60 million GF to implement the requirements under the agreement.
- With these general fund resources, funding for additional waiver slots and other community-based services, offset by savings assumed from the closure of four of the five state intellectual disability training centers, more than \$88.5 million GF has been set aside for the agreement.



GF Detail for DOJ Settlement Agreement

General Fund Costs of Department of Justice Settlement Agreement

	FY 2013	FY 2014	Biennium
Facility Costs			
Facility transition waiver slots	\$11,309,540	\$19,534,660	\$ 30,844,200
Facility closure costs (i.e., WTA)	2,749,885	8,397,855	11,147,740
Facility savings	(5,846,989)	(23,364,535)	(29,211,524)
Subtotal, Facility Costs	\$ 8,212,436	\$ 4,567,980	\$ 12,780,416
Community Costs			
Community waiver slots	\$19,615,150	\$27,642,275	\$ 47,257,425
Individual and Family Supports slots	2,400,000	3,200,000	5,600,000
Rental subsidies	800,000	-	800,000
Crisis stabilization	5,000,000	10,000,000	15,000,000
Subtotal, Community Costs	\$27,815,150	\$40,842,275	\$ 68,657,425
Administrative Costs			
Administration	\$ 1,313,682	\$ 1,807,338	\$ 3,121,020
Quality management	1,787,000	1,537,000	3,324,000
Independent Review	300,000	300,000	600,000
Subtotal, Administrative Costs	\$ 3,400,682	\$ 3,644,338	\$ 7,045,020
TOTAL, General Fund Costs	\$39,428,268	\$49,054,593	\$ 88,482,861



Plan Related to the Closure of State Training Centers

- Language included in the budget requires:

*The Commissioner of the Department of Behavioral Health and Developmental Services shall provide a plan to the General Assembly, developed in consultation with the Secretary of Health and Human Resources and the Chairmen of the House Appropriations and Senate Finance Committees, related to the closure of state training centers by the end fiscal year 2021, in compliance with the settlement agreement relating to *United States of America v. Commonwealth of Virginia* (Civil Action No. 312cv0059-JAG), subject to judicial approval. In developing the plan, the Commissioner shall solicit input from all relevant stakeholders including, but not limited to, individuals with intellectual or developmental disabilities or their guardians, and public and private providers. The plan shall be completed within one year of the effective date of the settlement agreement.*

