DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-25-26
Baltimore, Maryland 21244-1850

State Demonstrations Group

JUN 28 2019

Dr. Jennifer Lee
Secretary
Virginia Department of Medical Assistance Services
600 East Broad Street
Richmond, VA 23219

Dear Dr. Lee:

This letter is to inform you that the Centers for Medicare & Medicaid Services (CMS) has approved a two-month temporary extension of Virginia's title XXI section 1115 demonstration, entitled "Virginia FAMIS MOMS and FAMIS Select" (Project Number: 21-W-00058/3) in order to allow the Commonwealth and CMS to continue working together on approval of the extension of this demonstration. This demonstration is now set to expire on August 31, 2019.

CMS' approval is conditioned upon Virginia's continued compliance with the Special Terms and Conditions (STCs) defining the nature, character, and extent of anticipated federal involvement in the demonstration project. The current STCs, waiver, and expenditure authorities will continue to apply during the temporary extension of this demonstration until August 31, 2019.

Your CMS project officer for this demonstration is Ms. Ticia Jones. She is available to answer any questions concerning your section 1115 demonstration. Ms. Jones can be reached at (410) 786-8145, or at Ticia.Jones@cms.hhs.gov.

If you have questions regarding this communication, please contact me at (410) 786-9686.

Sincerely,

Judith Cash
Director

cc: Francis McCullough, Director, CMS Division of Medicaid Field Operations (DMFO) East
Margaret Kosherzenko, State Lead, DMFO East

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

June 24, 2016

Ms. Rebecca Mendoza, MA
Director, Marketing & Enrollment Services Division
Virginia Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, VA 23219

Dear Ms. Mendoza:

The Centers for Medicare & Medicaid Services (CMS) is approving Virginia's request to extend its title XXI section 1115 demonstration entitled, "FAMIS MOMS and FAMIS *Select*" (project no. 21-W-00058/3), pursuant to section 1115(a) of the Social Security Act (the Act). The 3-year extension period will be effective from July 1, 2016 until June 30, 2019.

Virginia requested to maintain its existing authority under this demonstration to provide title XXI coverage to two populations: 1) the FAMIS MOMS program provides State plan coverage to uninsured pregnant women with family income from 143 percent of the federal poverty level (FPL) up to and including 200 percent of the FPL, including those pregnant women who are lawfully residing in the United States and those with access to state employee's health benefit coverage; and, 2) the FAMIS *Select* program provides a premium assistance subsidy for individual or employer sponsored insurance coverage for children with family income from 143 percent up to and including 200 percent of the FPL, who are eligible for Virginia's title XXI separate Children's Health Insurance Program (CHIP) but choose premium assistance.

CMS' approval of this extension is conditioned upon compliance with the enclosed list of Special Terms and Conditions (STCs), waiver, and expenditure authorities, which define the nature, character and extent of anticipated federal involvement in the demonstration project. This award is subject to our receiving your written acknowledgement of the award and acceptance of these STCs within 30 days of the date of this letter.

Your title XXI Project Officer is Ms. Ticia Jones. She is available to answer questions concerning this demonstration project and may be contacted as follows:

Centers for Medicare & Medicaid Services
Center for Medicaid & CHIP Services
7500 Security Boulevard, Mailstop: S2-01-16
Baltimore, MD 21244-1850
Telephone: (410) 786-8145
E-mail: Ticia.Jones@cms.hhs.gov

Official communications regarding program matters should be sent simultaneously to Ms. Jones and to Mr. Francis McCullough, Associate Regional Administrator in the CMS Philadelphia Regional Office. Mr. McCullough's address is:

Centers for Medicare & Medicaid Services
Division of Medicaid and Children's Health Operations
Suite 216, The Public Ledger Building
150 Independence Mall West
Philadelphia, PA 19106

We appreciate your cooperation throughout the review process and look forward to continued demonstration success. If you have additional questions, please contact Mr. Eliot Fishman, Director, State Demonstrations Group, Center for Medicaid & CHIP Services, at (410)786-9686.

Sincerely,

/s/

Vikki Wachino
Director

Enclosures

cc: Francis McCullough, ARA, CMS Philadelphia Region III Office

CENTERS FOR MEDICARE & MEDICAID SERVICES
EXPENDITURE AUTHORITY

NUMBER: **21-W-00058/3**

TITLE: **Virginia FAMIS MOMS and FAMIS *Select* Section 1115 Demonstration**

AWARDEE: **Virginia Department of Medical Assistance Services**

Expenditure Authority

All requirements of the Medicaid and Children's Health Insurance Program (CHIP) not identified as not applicable in this list, shall apply to the demonstration expenditures listed below for the period beginning July 1, 2016 through June 30, 2019.

Under the authority of section 1115(a)(2) of the Social Security Act (the Act), expenditures made by the Commonwealth of Virginia for the items identified below (which are not otherwise included as expenditures under section 1903 or section 2107(e)(2)(A)) shall, for the period of this demonstration in accordance with the Special Terms and Conditions (STCs), be regarded as matchable expenditures under Virginia's title XXI plan:

1. **Demonstration Population I**: Expenditures for extending health insurance coverage through CHIP to uninsured pregnant women with income from 143 percent up to and including 200 percent of the federal poverty level (FPL), including those who are lawfully residing in the United States and those with access to state employees' health benefit coverage. Should the Commonwealth freeze enrollment or otherwise discontinue coverage of the pregnant woman population, the title XXI expenditure authority will terminate and will not be subject to renewal.

2. **Demonstration Population II:** Expenditures for extending health insurance coverage to children in families with income from 143 percent up to and including 200 percent of the FPL, who are eligible for Virginia's separate title XXI CHIP coverage but choose to elect a monthly premium assistance subsidy for individual or employer-sponsored insurance coverage.

For these populations, all CHIP and Medicaid rules not expressly waived or identified as not applicable shall apply.

The expenditure authorities listed above promote the objectives of title XXI by increasing overall health coverage and improving health outcomes for lower income (but not Medicaid eligible) children and families in the Commonwealth.

The following title XXI requirements are not applicable to the populations served under the

Virginia FAMIS MOMS and FAMIS *Select* section 1115 demonstration.

Title XXI Requirements Not Applicable to Demonstration Populations I and II.

1. **General Requirements, Eligibility and Outreach — Section 2102**

   The Commonwealth's CHIP does not have to reflect the demonstration populations, and eligibility standards do not have to be limited by the general principles in section 2102(b) of the Act. To the extent other requirements in section 2102 of the Act duplicate Medicaid or other CHIP requirements for these or other populations, they do not apply, except that the Commonwealth must perform eligibility screening to ensure that the demonstration populations do not include individuals otherwise eligible for Medicaid.

2. **Cost Sharing — Section 2103(e)**

   Rules governing cost sharing under section 2103(e) of the Act shall not apply to the demonstration population to the extent necessary to enable the state to impose cost sharing in individual or employer-sponsored insurance plans.

3. **Cost-Sharing Exemption for American Indian/ Alaskan Native (AI/AN) Children — Section 2102(b)(3)(D) 42 CFR Section 457.535**

   To the extent necessary to permit the Commonwealth to impose cost sharing on AI/AN children who elect to enroll in the premium assistance program.

4. **Benefit Package Requirements — Section 2103**

   To permit the Commonwealth to offer a benefit package that does not meet the requirements of section 2103 at 42 CFR section 457.4 10(b)(1) for the demonstration populations.

5. **Federal Matching Payment and Family Coverage Limits — Section 2105**

   Federal matching payment in excess of the 10 percent cap for expenditures related to the demonstration population and limits on family coverage are not applicable to the demonstration population.

CENTERS FOR MEDICARE & MEDICAID SERVICES
WAIVER AUTHORITY

NUMBER: **21-W-00058/3**

TITLE: **Virginia FAMIS MOMS and FAMIS *Select* Section 1115 Demonstration**

AWARDEE: **Virginia Department of Medical Assistance Services**

Under the authority of section 1115(a)(1) of the Social Security Act (the Act), the following exceptions to Medicaid and Children's Health Insurance Program (CHIP) requirements are granted for the period beginning July 1, 2016 through June 30, 2019:

Newborn deeming **Section 1902(a)(46) and 2102(b)(2)**

To enable the Commonwealth to consider children, who are born to pregnant women enrolled in the demonstration or eligible as targeted low-income children under the approved CHIP state plan, to have applied and been determined eligible for Medicaid or CHIP on the date of birth and remaining eligible until attaining the age of 1.

CENTERS FOR MEDICARE & MEDICAID SERVICES
SPECIAL TERMS AND CONDITIONS (STCs)

DEMONSTRATION NUMBER: No. 21-W-00058/3

TITLE: FAMIS MOMS and FAMIS *Select*

AWARDEE: Virginia Department of Medical Assistance Services

I. PREFACE

The following are Special Terms and Conditions (STCs) for the Virginia FAMIS MOMS and FAMIS *Select* programs, a Children's Health Insurance Program (CHIP) section 1115 demonstration. The parties to this agreement are the Virginia Department of Medical Services (Commonwealth) and the Centers for Medicare & Medicaid Services (CMS). The STCs set forth in detail the nature, character, and extent of Federal involvement in the demonstration and the Commonwealth's obligations to CMS during the life of the demonstration. All previously approved STCs, waivers, and expenditure authorities are superseded by the STCs set forth below. This demonstration renewal is approved for the period of July 1, 2016 through June 30, 2019.

The STCs have been arranged into the following subject areas: Program Description and Objectives; General Program Requirements; General Reporting Requirements; Eligibility and Enrollment; Benefits; Cost Sharing; Delivery System; Evaluation of the Demonstration; General Financial Requirements.

Amendment requests, correspondence, documents, reports, and other materials that are submitted for review or approval shall be directed to the CMS Central Office Project Officer and the Associate Regional Administrator at the addresses shown on the award letter.

II. PROGRAM DESCRIPTION AND OBJECTIVES

This demonstration has two components. The first component of the demonstration entitled, "FAMIS MOMS" provides coverage to uninsured pregnant women in families with income from 143 percent up to and including 200 percent of the federal poverty level (FPL). "FAMIS MOMS" also provides coverage to lawfully residing pregnant women and pregnant women with access to state employee's health benefit coverage (in accordance with the hardship exception as provided in section 2110(b)(6)(C) of the Social Security Act (the Act)); thereby aligning the Commonwealth's coverage of pregnant women with the expansion of CHIP coverage to children of state employees. FAMIS MOMS coverage is the same as that provided to pregnant women under the Medicaid state plan. Under the demonstration, Virginia is also authorized to deem infants born to FAMIS MOMS to be eligible for Medicaid or CHIP coverage, as appropriate. These infants are deemed eligible on the date of birth and remain eligible until attaining the age of 1.

The second component of the demonstration entitled, the "FAMIS *Select*" program, provides premium assistance for individual or employer-sponsored insurance (ESI) to uninsured children in families with income from 143 percent up to and including 200 percent of the FPL, who are otherwise eligible for direct CHIP coverage. These individuals are provided the option to receive premium assistance for individual insurance or ESI and supplemental immunization benefits in lieu of receiving coverage under the CHIP state plan. However, these individuals still retain the right to elect to receive direct CHIP coverage at any time.

Demonstration History: The Virginia FAMIS MOMS and FAMIS Select demonstration was initially approved on June 30, 2005 and implemented August 1, 2005.

Prior to January 1, 2014, the income eligibility threshold for the FAMIS MOMS program was 210 percent of the FPL. During the period January 1, 2014 through November 30, 2014, the FAMIS MOMS component of this title XXI demonstration was phased-out because the Virginia General Assembly adopted an amendment to the Commonwealth's biennial budget directing the Commonwealth to phase out and eliminate the FAMIS MOMS program when health insurance coverage under the Federally Facilitated Marketplace (FFM) became available on January 1, 2014. New applications for FAMIS MOMS coverage were not accepted after December 31, 2013. However, women enrolled in FAMIS MOMS on or prior to December 31, 2013 retained eligibility for the duration of their coverage period. Any application received for pregnancy coverage beginning January 1, 2014 through November 30, 2014, was screened for Medicaid under pregnant women eligibility and for CHIP. If the applicant was ineligible for Medicaid or CHIP, the application was transferred to the FFM. Beginning on December 1, 2014, enrollment was reopened and new applications accepted for uninsured pregnant women with income up to and including 200 percent of the FPL. This income eligibility threshold aligns with children's coverage levels under the CHIP program.

III. GENERAL PROGRAM REQUIREMENTS

1. **Compliance with Federal Non-Discrimination Statutes.** The state must comply with all applicable federal statutes relating to non-discrimination. These include, but are not limited to, the Americans with Disabilities Act of 1990, title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

2. **Compliance with Medicaid and CHIP Law, Regulation, and Policy.** All requirements of the Medicaid and CHIP programs expressed in law, regulation, and policy statement, not expressly waived or identified as not applicable in the waiver and expenditure authority documents (of which these terms and conditions are part), must apply to the demonstration.

3. **Changes in Medicaid and CHIP Law, Regulation, and Policy.** The Commonwealth must, within the timeframes specified in law, regulation, or policy statement, come into compliance with any changes in federal law, regulation, or policy affecting the Medicaid or CHIP programs that occur during this demonstration approval period, unless the provision being changed is expressly waived or identified as not applicable. In addition,

CMS reserves the right to amend the STCs to reflect such changes and/or changes as needed without requiring the state to submit an amendment to the demonstration under STC 7. CMS will notify the state 30 days in advance of the expected approval date of the amended STCs to allow the state to provide comment. Changes will be considered in force upon issuance of the approval letter by CMS. The state must accept the changes in writing.

4. **Impact of Changes in Federal Law, Regulation, and Policy on the Demonstration.**

    a. To the extent that a change in federal law, regulation, or policy requires either a reduction or an increase in federal financial participation (FFP) for expenditures made under this demonstration, the Commonwealth must adopt, subject to CMS approval, a modified allotment neutrality worksheet for the demonstration as necessary to comply with such change. The modified allotment neutrality worksheet will be effective upon the implementation of the change.

    b. If mandated changes in the federal law require state legislation, the changes must take effect on the day such state legislation becomes effective, or on the last day such legislation was required to be in effect under the law.

5. **State Plan Amendments.** The state will not be required to submit title XIX or title XXI state plan amendments for changes affecting any populations made eligible solely through the demonstration. If a population eligible through the Medicaid or CHIP state plan is affected by a change to the demonstration, a conforming amendment to the appropriate state plan is required, except as otherwise noted in these STCs.

6. **Changes Subject to the Amendment Process**. Changes related to demonstration features, such as eligibility, enrollment, enrollee rights, delivery systems, benefits, evaluation design, cost sharing, sources of non-federal share of funding, and other comparable program elements must be submitted to CMS as amendments to the demonstration. All amendment requests are subject to approval at the discretion of the Secretary in accordance with section 1115 of the Act. The Commonwealth must not implement or begin operational changes to these elements without prior approval by CMS of the amendment to the demonstration. In certain instances, amendments to the Medicaid or CHIP state plan may or may not require amendment to the demonstration as well. Should the Commonwealth freeze enrollment or otherwise discontinue coverage of the pregnant woman population, the title XXI expenditure authority will terminate and will not be subject to renewal. Amendments to the demonstration are not retroactive and FFP will not be available for changes to the demonstration that have not been approved through the amendment process set forth in STC 7 below.

7. **Amendment Process.** Requests to amend the demonstration must be submitted to CMS for approval no later than 120 days prior to the planned date of implementation of the change and may not be implemented until approved. CMS reserves the right to deny or delay approval of a demonstration amendment based upon non-compliance with these STCs, including but not limited to failure by the state to submit required elements of a

viable amendment request as found in these STCs, required reports and other deliverables required in the approved STCs in a timely fashion according to the deadlines specified herein. Amendment requests must include, but are not limited to, the following:

a. *Public Notice.* The Commonwealth does not need to comply with the state public notice and comment process outlined in 42 CFR §431.408 until such time that CMS issues policy guidance to the contrary. However CMS encourages the state to do so in the event it seeks to amend the demonstration that modifies benefits, cost sharing, eligibility, or delivery system changes. CMS will post and accept public comments on all amendments;

b. *Tribal Consultation Requirements*. If applicable, the Commonwealth must provide documentation of compliance with the tribal consultation requirements outlined in STC 15. Such documentation shall include a summary of the tribal comments and identification of proposal adjustments made to the amendment request due to the tribal input;

c. *Demonstration Amendment Summary and Objectives.* The Commonwealth must provide a detailed description of the amendment, including what Virginia intends to demonstrate via this amendment as well as the impact on beneficiaries, with sufficient supporting documentation, the objective of the change and desired outcomes including a conforming title XIX and/or title XXI state plan amendment, if necessary;

d. *Waiver and Expenditure Authorities.* The Commonwealth must provide a list of waivers and expenditure authorities that are being requested or terminated, along with the programmatic description of why these waivers and expenditure authorities are being requested for the amendment;

e. *Allotment Neutrality Worksheet.* The Commonwealth must provide an up-to-date CHIP (title XXI funding) allotment neutrality worksheet that identifies the impact of the proposed amendment on the Commonwealth's available title XXI allotment.

8. Extension of the Demonstration. No later than 12 months prior to the expiration date of the demonstration, the Governor of the Commonwealth must submit to CMS either a demonstration extension request or a transition and phase-out plan consistent with the requirements of STC 9.

a. *Compliance with Transparency Requirements at 42 CFR §431.412(c).* As part of a demonstration extension request, the Commonwealth must provide documentation of compliance with the transparency requirements at 42 CFR §431.408 and 412 and the public notice and tribal consultation requirements outlined in STC 15.

b. *Temporary Extension of the Demonstration.* CMS may temporarily extend the demonstration on its current terms, or with amendments to the current terms agreed upon by both CMS and Virginia, for no more than three months when additional time is needed for a CMS review of a timely request for renewal.

9. **Demonstration Phase-Out.** The Commonwealth may only suspend or terminate this demonstration in whole, or in part, consistent with the following requirements.

    a. *Notification of Suspension or Termination.* The Commonwealth must promptly notify CMS in writing of the reason(s) for the suspension or termination, together with the effective date and a transition and phase-out plan. The state must submit its notification letter and a draft transition and phase-out plan to CMS no less than six (6) months before the effective date of the demonstration's suspension or termination. Prior to submitting the draft plan to CMS, the state must publish on its website the draft transition and phase-out plan for a 30-day public comment period. In addition, the state must conduct tribal consultation in accordance with its approved tribal consultation State Plan Amendment. Once the 30-day public comment period has ended, the state must provide a summary of each public comment received, the state's response to the comment and how the state incorporated the received comment into the revised phase-out plan.

    b. *Transition and Phase-out Plan.* The Commonwealth must obtain CMS approval of the transition and phase-out plan prior to the implementation of the phase-out activities. Implementation of phase-out activities must be no sooner than 14 days after CMS approval of the phase-out plan.

    c. *Transition and Phase-out Plan Requirements*. The Commonwealth must include, at a minimum, in its phase-out plan the process by which it will notify affected beneficiaries, the content of said notices (including information on the beneficiary's appeal rights), the process by which the state will conduct administrative reviews of Medicaid eligibility prior to the termination of the program for the affected beneficiaries including any individuals on demonstration waiting lists, and ensure ongoing coverage for those beneficiaries determined eligible for ongoing coverage, as well as any community outreach activities including community resources that are available.

    d. *Phase-out Procedures*. The Commonwealth must comply with all notice requirements found in 42 CFR §431.206, §431.210, and §431.213. In addition, the state must assure all appeal and hearing rights afforded to demonstration participants as outlined in 42 CFR §431.220 and §431.221. If a demonstration participant requests a hearing before the date of action, the state must maintain benefits as required in 42 CFR §431.230. In addition, the state must conduct administrative renewals for all affected beneficiaries in order to determine if they qualify for Medicaid eligibility under a different eligibility category.

e. *Exemption from Public Notice Procedures 42.CFR Section 431.416(g).* CMS may expedite the federal and state public notice requirements in the event it determines that the objectives of title XIX and XXI would be served or under circumstances described in 42 CFR §431.416(g).

f. *Federal financial participation (FFP).* If the project is terminated or any relevant waivers suspended by the state, FFP shall be limited to normal closeout costs associated with terminating the demonstration including services and administrative costs of disenrolling participants.

10. **Enrollment Limitation during Demonstration Phase-Out.** If the Commonwealth elects to suspend, terminate, or not renew this demonstration as described in STC 9, during the last 6 months of the demonstration, enrollment of new individuals into the demonstration must be suspended. The Commonwealth shall work with individuals who would be eligible for Medicaid, CHIP, or Federally Facilitated Marketplace coverage to enroll into such coverage.

11. **CMS Right to Amend, Terminate or Suspend**. CMS may amend, suspend or terminate the demonstration (in whole or in part) at any time before the date of expiration, whenever it determines following a hearing that the Commonwealth has materially failed to comply with the terms of the project. CMS will promptly notify the Commonwealth in writing of the determination and the reasons for the suspension or termination, together with the effective date.

12. **Finding of Non-Compliance.** The Commonwealth does not relinquish its rights to challenge CMS' finding that the state materially failed to comply.

13. **Withdrawal of Waiver Authority.** CMS reserves the right to withdraw waivers or expenditure authorities at any time it determines that continuing the waivers or expenditure authorities would no longer be in the public interest or promote the objectives of title XIX or XXI. CMS will promptly notify the Commonwealth in writing of the determination and the reasons for the withdrawal, together with the effective date, and afford the Commonwealth an opportunity to request a hearing to challenge CMS' determination prior to the effective date. If a waiver or expenditure authority is withdrawn, FFP is limited to normal closeout costs associated with terminating the waiver or expenditure authority, including services and administrative costs of disenrolling participants.

14. **Adequacy of Infrastructure.** The Commonwealth must ensure the availability of adequate resources for implementation and monitoring of the demonstration, including education, outreach and enrollment; maintaining eligibility systems; compliance with cost sharing requirements; and reporting on financial and other demonstration components.

15. **Public Notice, Tribal Consultation, and Consultation with Interested Parties.** The Commonwealth must comply with the State Notice Procedures set forth in 59 Fed. Reg. 49249 (September 27, 1994). The Commonwealth must also comply with the tribal

consultation requirements in section 1902(a)(73) of the Act as amended by section 5006(e) of the American Recovery and Reinvestment Act (ARRA) of 2009, the implementing regulations for the Review and Approval Process for Section 1115 demonstrations at 42 CFR431.408, and the tribal consultation requirements contained in the Commonwealth's approved CHIP state plan, when any program changes to the demonstration, including (but not limited to) those referenced in STC 6**Error! Reference source not found.**, are proposed by the Commonwealth.

a. *Consultation with Federally Recognized Tribes on New Demonstration Proposals Applications and Renewals of Existing Demonstrations*. In states with Federally recognized Indian tribes, consultation must be conducted in accordance with the consultation process outlined in the July 17, 2001 letter or the consultation process in the state's approved Medicaid state plan if that process is specifically applicable to consulting with tribal governments on waivers (42 CFR 431.408(b)(2)).

b. *Seeking Advice and Guidance from Indian Health Programs Demonstration Proposals, Renewals, and Amendments*. In states with Indian health programs, and/or Urban Indian organizations, the state is required to submit evidence to CMS regarding the solicitation of advice from these entities in accordance with the process in the state's approved Medicaid state plan prior to submission of any demonstration proposal, amendment and/or renewal of this demonstration.

c. *Public Notice.* The Commonwealth must also comply with the Public Notice Procedures set forth in 42 CFR 447.205 for changes in statewide methods and standards for setting payment rates.

16. **Federal financial participation (FFP).** No federal matching for expenditures for this demonstration will take effect until the effective date identified in the demonstration approval letter, or a later date if so identified elsewhere in these STCs or in the list of waiver or expenditure authorities.

IV. GENERAL REPORTING REQUIREMENTS

17. **Monitoring Calls.** CMS and the Commonwealth will hold quarterly monitoring calls to discuss issues associated with the continued operation of the demonstration. The purpose of these calls is to discuss any significant actual or anticipated developments affecting the demonstration. Areas to be addressed include, but are not limited to: transition and implementation activities, operations and performance, enrollment, cost sharing, quality of care, access, the benefit package, audits, lawsuits, financial reporting and budget neutrality issues, progress on evaluations, legislative developments, and any demonstration amendments the state is considering submitting. CMS will provide updates on any related 1115 requests submitted by the Commonwealth under review, as well as federal policies and issues that may affect any aspect of the demonstration. The Commonwealth and CMS will jointly develop the agenda for the calls.

18. **Post Award Forum.** As required by 42 CFR 431.420(c), within six months of the demonstration's implementation, and annually thereafter, the Commonwealth will afford the public with an opportunity to provide meaningful comment on the progress of the demonstration. The Commonwealth must include a summary of the comments and issues raised by the public at these forums and include the summary in the quarterly report, as specified in STC 19, associated with the quarter in which the forum was held. The Commonwealth must also include the summary in its annual report as required in STC 20.

19. **Quarterly Progress Reports**. The Commonwealth must submit quarterly progress reports in accordance with the guidelines in Attachment B by no later than 60 days following the end of each quarter. The intent of these reports is to present the Commonwealth's analysis and the status of the various operational areas. These quarterly reports must include the following, but are not limited to:

    a. An updated allotment neutrality monitoring spreadsheet;

    b. Events occurring during the quarter or anticipated to occur in the near future that affect health care delivery, including, but not limited to: benefits, enrollment and disenrollment, complaints and grievances, quality of care, and access that is relevant to the demonstration, pertinent legislative or litigation activity, and other operational issues;

    c. Updates on the post award forums required under STC 18.

    d. Action plans for addressing any policy, administrative, or budget issues identified;

    e. Monthly enrollment reports for demonstration participants, that include the member months and end of quarter, point-in-time enrollment for each demonstration population;

    f. Information on beneficiary complaints, grievances and appeals filed during the quarter by type including; access to urgent, routine, and specialty services, and a description of the resolution and outcomes; and,

    g. Evaluation activities and interim findings. The Commonwealth shall include a summary of the progress of evaluation activities, including key milestones accomplished as well as challenges encountered and how they were addressed. The discussion shall also include interim findings as data become available

20. **Demonstration Annual Report**. The Commonwealth must submit annual reports that, at a minimum, include the requirements outlined below. The Commonwealth's fourth quarter progress report for each Demonstration Year (DY), may serve as the Commonwealth's annual report. The fourth quarter/annual report shall include an end of year summary of the program elements as reported in each quarterly report for the DY.

The Commonwealth will submit a draft annual report no later than 60 days after the end of each demonstration year. Within 30 days of receipt of CMS' comments on the draft report, the Commonwealth must submit a final annual report for the DY that addresses all CMS feedback.

a. All items included in the quarterly report pursuant to STC 19 must be summarized to reflect the operation/activities throughout the DY;

b. Total annual expenditures for the demonstration population for that DY, with administrative costs reported separately; and,

c. Yearly enrollment reports for demonstration enrollees for that DY.

21. **Final Demonstration Report.** Within 120 days following the end of the demonstration, the Commonwealth must submit a draft final report to CMS for comment. The state must take into consideration CMS' comments for incorporation into the final demonstration report. The final demonstration report is due to CMS no later than 90 days after receipt of CMS' comments.

V. ELIGIBILITY AND ENROLLMENT

22. **Eligibility Groups Affected By the Demonstration.** There are two populations eligible under this demonstration:

a. **FAMIS MOMS.** Coverage is provided to uninsured pregnant women in families with income from 143 of the FPL up to and including 200 percent of the FPL, including those women lawfully residing in the United States. FAMIS MOMS coverage is also provided to pregnant women with access to state employee's health benefit coverage (in accordance with the hardship exception as provided in section 2110(b)(6)(C) of the Act), thereby aligning with the Commonwealth's coverage of pregnant women with the expansion of CHIP coverage to children of state employees. FAMIS MOMS coverage is the same as that provided to pregnant women under the Medicaid state plan. Pregnant women are eligible for the duration of their pregnancy and for 60 days after the pregnancy ends; and any remaining days in the month in which the 60th day falls.

Under the demonstration, Virginia is also authorized to deem infants born to FAMIS MOMS to be eligible for Medicaid or CHIP coverage, as appropriate. These infants are deemed eligible on the date of birth and remain eligible until attaining the age of 1.

b. **FAMIS *Select* Premium Assistance.** Children eligible for Virginia's separate CHIP program, may elect to enroll in FAMIS *Select* and receive CHIP premium assistance payments to purchase individual or ESI and immunization benefits. Such enrollment is voluntary and based on informed choice regarding all implications of choosing premium assistance in lieu of direct CHIP state plan

coverage, including the possibility of reduced benefits and increased cost-sharing, and that the CHIP cost-sharing limit of 5 percent on annual, aggregate cost sharing will not apply. The Commonwealth will ensure that enrollees are annually notified that they may choose direct coverage at any time. The Commonwealth will inform families that all age-appropriate immunizations in accordance with the recommendations of the Advisory Committee on Immunization Practices (ACIP) are covered by CHIP if their individual or ESI coverage does not provide for such immunizations. Families will continue to be told that this coverage is a factor to consider in choosing individual or ESI. The Commonwealth shall provide information as to where children may receive immunizations, well-baby, and well-child services in the event these services are not covered in the employer-sponsored plan or individual health plan in which they are enrolled. In the case of title XXI eligibles, whose employer or individual insurance does not include immunizations, the Commonwealth has an established mechanism in effect to reimburse providers for the cost of immunizations.

23. **Application of Modified Adjusted Gross Income (MAGI).** The state must maintain its converted eligibility standards and methodologies for all eligibility groups subject to MAGI through the state plan effective January 1, 2014.

24. **Screening for Medicaid.** Applicants for the demonstration will continue to be screened for Medicaid eligibility. Demonstration applicants eligible for Medicaid will be enrolled in Medicaid and receive the full Medicaid benefit package.

25. **Enrollment Limits.** There is no enrollment cap for FAMIS MOMS and FAMIS *Select*. Enrollment in an individual or employer-sponsored plan is voluntary and the child may continue to elect to switch to direct Commonwealth coverage at any time.

26. **Applicability of title XXI Maintenance of Effort to Demonstration Populations.** Demonstration Population 1/FAMIS MOMS: This provision is not applicable to pregnant women. The state must notify CMS 60 days in advance of such action. Demonstration Population 2: The maintenance of effort provision at section 2105(d)(3) of the Act requires that, with certain exceptions, as a condition of receiving federal financial participation for Medicaid, states must maintain CHIP "eligibility standards, methodologies, and procedures" for children that are no more restrictive than those in effect on March 23, 2010. See Attachment A, STC#7 related to funding shortfalls.

VI. BENEFITS

27. **Demonstration Benefits**. There are two distinct benefit packages offered under this demonstration:

    a. **FAMIS MOMS Coverage** – Women enrolled in FAMIS MOMS receive the same package of benefits as provided to pregnant women covered by Virginia's Medicaid program. The benefit package includes comprehensive health and dental benefits, but excludes orthodontics. Under FAMIS MOMS coverage,

dental benefits are only available to pregnant women who are 21 years of age and older, but only through the end of the month following their 60th day postpartum, at which time dental benefits will be discontinued. All dental services must be received through the contracted ***Smiles for Children*** service provider**,** DentaQuest.

If changes are made in the benefit package, the Commonwealth must submit the proposed change to CMS for review and approval, as outlined in STC 7, before modifications can be implemented by the Commonwealth.

b. **FAMIS *Select* Premium Assistance**. For families with CHIP eligible children who choose to receive premium assistance for individual insurance or ESI, benefits are limited to premium assistance subsidies and immunizations, as described in STC 22.

28. Cost Effectiveness. Consistent with 2105(c)(3) of the Social Security Act, cost-effectiveness for the purchase of employer-sponsored insurance shall be determined relative to the amount of expenditures (determined on an individual or aggregate basis) under the state child health plan, including administrative expenditures, that the state would have made to provide comparable coverage to the targeted low-income child or family involved (as applicable).

29. Minimum Essential Coverage (MEC). In accordance with CMS' February 12, 2016 correspondence, the Commonwealth's benefit package provided to uninsured pregnant women and newborn children under the FAMIS MOMS component of the demonstration is equivalent to CHIP state plan coverage. Accordingly, CMS has determined coverage provided to these women and children under this demonstration is recognized as MEC.

CMS has also concluded that the Commonwealth's coverage provided under the FAMIS Select component of the demonstration does not meet the comprehensive criteria for MEC. The FAMIS Select program does not provide premium assistance enrollees with wrap-around services or cost-sharing assistance that is comparable to CHIP state plan out-of-pocket limits, thus, this is a lesser benefit than coverage afforded to children who elect CHIP state plan coverage. Accordingly, CMS has determined that the coverage provided to these children under this demonstration is not recognized as MEC.

VII. COST SHARING

30. Cost Sharing. The cost-sharing requirements for this demonstration are outlined below:

a. **FAMIS MOMS -** The cost-sharing requirements for the FAMIS MOMS component of the demonstration are consistent with those described in the Medicaid state plan. There are no monthly premiums or enrollment fees associated with participation in the demonstration.

Co-payments for services received by FAMIS MOMS are identical to co-payments required of pregnant women covered by Medicaid. By policy, there are no co-payments required for pregnancy related services or for medical conditions that may complicate the pregnancy, including dental services. Also, it is a contractual requirement that Managed Care Organization (MCO) not charge pregnant women co-payments for any services. Therefore, the only co-payments that may be charged to a pregnant woman receiving services through Medicaid or FAMIS MOMS would be for non-pregnancy related services delivered through fee-for-service.

b. **FAMIS *Select* Premium Assistance**. For families with CHIP eligible children who choose to receive premium assistance, cost-sharing requirements will continue to be set by their individual or ESI plan.

VIII. DELIVERY SYSTEM

31. Demonstration Delivery System. The demonstration delivery system varies by population, as described below:

a. **FAMIS MOMS -** Health care services are delivered primarily through one of the MCOs contracted by DMAS to provide Medicaid and FAMIS benefits. Initially, benefits are provided on a fee-for-service basis until the pregnant woman is enrolled in an MCO. Dental services are provided by the contracted ***Smiles for Children*** service provider, DentaQuest.

b. **FAMIS *Select* Premium Assistance**. For families who select premium assistance, health care services are delivered through the individual or ESI plan of choice. For these families, the Commonwealth only provides a monthly per child subsidy payment to help cover the cost of insurance premiums.

IX. EVALUATION OF THE DEMONSTRATION

32. Submission of an Updated Evaluation Design Subject to CMS Approval. The Commonwealth must submit to CMS for approval a draft evaluation design that builds and improves upon the current CMS approved evaluation design no later than 120 days after CMS approval of the demonstration extension. The draft evaluation design must discuss the outcome measures that shall be used in evaluating the impact of the demonstration during the period of approval. It shall discuss the data sources and sampling methodology for assessing these outcomes. The draft evaluation design must include a detailed analysis plan that describes how the effects of the demonstration shall be isolated from other initiatives occurring in the Commonwealth. The draft design shall identify whether the Commonwealth will conduct the evaluation, or select an outside contractor for the evaluation.

When developing the evaluation design, the Commonwealth shall consider ways to structure the design that will facilitate the collection, dissemination, and comparison of

valid quantitative data to support the research hypotheses. For each research hypothesis, the Commonwealth must identify a preferred quantitative and/or qualitative research methodology and provide a rationale for its selected methodology. To the extent applicable, the following items must be specified for each design option considered:

i. Quantitative or qualitative outcome measures;
ii. Proposed baseline and/or control comparisons;
iii. Proposed process and improvement outcome measures and specifications;
iv. Data sources and collection frequency;
v. Robust sampling designs (e.g., controlled before-and-after studies, interrupted time series design, and comparison group analyses);
vi. Cost estimates;
vii. Timelines for deliverables

33. **Cooperation with Federal Evaluators.** Should CMS undertake an evaluation of any component of the demonstration, the Commonwealth shall cooperate fully with CMS or the evaluator selected by CMS. In addition, the Commonwealth shall submit the required data to CMS or its contractor.

34. **Final Evaluation Design and Implementation.** CMS shall provide comments on the draft evaluation design described in STC 32 within 60 days of receipt, and the Commonwealth shall submit a final design within 60 days after receipt of CMS comments. The Commonwealth must implement the evaluation plan within 60 days of receipt of CMS' approval of the final evaluation design. The Commonwealth must report evaluation activities in each of the quarterly and annual progress reports described in STC 19 and 20. The evaluation design may be revised during the demonstration approval period as needed or required by the STCs.

35. **Interim Evaluation Report.** The Commonwealth must submit an interim evaluation report to CMS as part of any future request to extend the demonstration. The interim evaluation report will discuss evaluation progress and present findings to date.

36. **Final Evaluation Report.** The Commonwealth must submit to CMS a draft of the evaluation final report within 60 days prior to the expiration of the demonstration. The Commonwealth must take into consideration CMS' comments for incorporation into the final evaluation report. The final evaluation report is due to CMS no later than 60 days after receipt of CMS' comments.

X. GENERAL FINANCIAL REQUIREMENTS

This project is approved for title XXI expenditures applicable to services rendered during the demonstration period. This section describes the general financial requirements for these expenditures.

37. **General Financial Requirements.** The Commonwealth must comply with all general financial requirements under title XXI as set forth in Attachment A of these STCs.

38. **Administrative Costs.** Administrative costs will not be included in the allotment neutrality limit, but the Commonwealth must separately track and report additional administrative costs that are directly attributable to the demonstration, using Forms CMS-64.10 Waiver and/or 64.10P Waiver, with waiver name "ADM".

39. **Extent of Federal Financial Participation (FFP) for the Demonstration**. Subject to CMS approval of the source(s) of the non-federal share of funding, CMS will provide FFP at the applicable federal matching rate for the demonstration as outlined below, subject to the Commonwealth's title XXI allotment limit:

    a. Administrative costs, including those associated with the administration of the demonstration.

    b. Net expenditures and prior period adjustments of the Medicaid or CHIP program that are paid in accordance with the approved state plans.

    c. Medical Assistance expenditures made under section 1115 demonstration authority, including those made in conjunction with the demonstration, net of enrollment fees, cost sharing, pharmacy rebates, and all other types of third party liability or CMS payment adjustments.

40. **Sources of Non-Federal Share**. The Commonwealth must certify that the matching non-federal share of funds for the demonstration are state/local monies. The Commonwealth further certifies that such funds shall not be used as the match for any other federal grant or contract, except as permitted by law. All sources of non-federal funding must be compliant with section 1903(w) of the Act and applicable regulations. In addition, all sources of the non-federal share of funding are subject to CMS approval.

    a. CMS may review the sources of the non-federal share of funding for the demonstration at any time. The state agrees that all funding sources deemed unacceptable by CMS shall be addressed within the time frames set by CMS.

    b. Any amendments that impact the financial status of the program shall require the state to provide information to CMS regarding all sources of the non-federal share of funding.

    c. The Commonwealth assures that all health care-related taxes comport with section 1903(w) of the Act and all other applicable federal statutory and regulatory provisions, as well as the approved Medicaid or CHIP state plan.

    d. State Certification of Funding Conditions. The Commonwealth must certify that the following conditions for non-federal share of demonstration expenditures are met:

i. Units of government, including governmentally operated health care providers, may certify that state or local tax dollars have been expended as the non-federal share of funds under the demonstration.
ii. To the extent the Commonwealth utilizes certified public expenditures (CPEs) as the funding mechanism for title XIX (or under section 1115 authority) payments, CMS must approve a cost reimbursement methodology. This methodology must include a detailed explanation of the process by which the Commonwealth would identify those costs eligible under title XIX (or under section 1115 authority) for purposes of certifying public expenditures.
iii. To the extent the Commonwealth utilizes CPEs as the funding mechanism to claim federal match for payments under the demonstration, governmental entities to which general revenue funds are appropriated must certify to the state the amount of such tax revenue (state or local) used to satisfy demonstration expenditures. The entities that incurred the cost must also provide cost documentation to support the Commonwealth's claim for federal match.

e. The Commonwealth may use intergovernmental transfers to the extent that such funds are derived from state or local tax revenues and are transferred by units of government within the Commonwealth. Any transfers from governmentally operated health care providers must be made in an amount not to exceed the non-federal share of title XIX payments.

f. Under all circumstances, health care providers must retain 100 percent of the reimbursement amounts claimed by the state as demonstration expenditures. Moreover, no pre-arranged agreements (contractual or otherwise) may exist between the health care providers and the state and/or local government to return and/or redirect any portion of Medicaid or CHIP payments. This confirmation of Medicaid/CHIP payment retention is made with the understanding that payments that are the normal operating expenses of conducting business (such as payments related to taxes - including health care provider-related taxes - fees, and business relationships with governments that are unrelated to Medicaid or CHIP, and in which there is no connection to Medicaid or CHIP payments) are not considered returning and/or redirecting a Medicaid or CHIP payment.

41. Title XXI Limits. Virginia will be subject to a limit on the amount of federal title XXI funding that the Commonwealth may receive on demonstration expenditures during the demonstration period. Federal title XXI funding available for demonstration expenditures is limited to the Commonwealth's available federal fiscal year allotment, including currently available reallocated funds.

ATTACHMENT A

TITLE XXI FINANCIAL REPORTING REQUIREMENTS

1. In order to track title XXI expenditures under this demonstration, the Commonwealth will report demonstration expenditures through the Medicaid and State Children's Health Insurance Program Budget and Expenditure System (MBES/CBES), following routine CMS-21 reporting instructions as outlined in section 2115 of the State Medicaid Manual. Title XXI demonstration expenditures will continue to be reported on separate Forms CMS-21 Waiver and/or CMS-21P Waiver, identified by the demonstration project number assigned by CMS (including project number extension, which indicates the demonstration year in which services were rendered or for which capitation payments were made).

   a. All claims for expenditures related to the demonstration (including any cost settlements) must be made within 2 years after the calendar quarter in which the Commonwealth made the expenditures. Furthermore, all claims for services during the demonstration period (including cost settlements) must be made within 2 years after the conclusion or termination of the demonstration. During the latter 2-year period, the Commonwealth must continue to identify separately, on the Form CMS-21, net expenditures related to dates of service during the operation of the demonstration.

   b. The standard CHIP funding process will continue to be used during the demonstration. Virginia will continue to estimate matchable CHIP expenditures on the quarterly Form CMS-21B. On a separate CMS-21B, the Commonwealth shall provide updated estimates of expenditures for the demonstration populations. CMS will make federal funds available based upon the Commonwealth's estimate, as approved by CMS. Within 30 days after the end of each quarter, the Commonwealth must submit the Form CMS-21 quarterly CHIP expenditure report. CMS will reconcile expenditures reported on the Form CMS-21 with federal funding previously made available to the Commonwealth, and include the reconciling adjustment in the finalization of the grant award to the Commonwealth.

   c. The Commonwealth must certify state/local monies used as matching funds for the demonstration and will further certify that such funds will not be used as matching funds for any other federal grant or contract, except as permitted by Federal law.

2. The Commonwealth shall provide quarterly expenditure reports using the Form CMS-21 to report total expenditures for services provided under the approved CHIP plan (FAMIS) and those provided through the FAMIS MOMS and FAMIS *Select* under section 1115 authority. This project is approved for expenditures applicable to services rendered during the demonstration period. CMS will provide Federal Financial Participation (FFP) only for allowable Virginia demonstration expenditures that do not exceed the Commonwealth's available title XXI funding.

3. Virginia will be subject to a limit on the amount of federal title XXI funding that it may receive on demonstration expenditures during the waiver period. Federal title XXI funding available for demonstration expenditures is limited to the Commonwealth's available allotment, including currently available reallocated funds. Should the Commonwealth expend its available title XXI Federal funds for the claiming period, no further enhanced federal matching funds will be available for costs of the separate child health program or demonstration until the next allotment becomes available.

4. Total Federal title XXI funds for the Commonwealth's CHIP program (i.e., the approved title XXI State plan and this demonstration) are restricted to the Commonwealth's available allotment and reallocated funds. Title XXI funds (i.e., the allotment or reallocated funds) must first be used to fully fund costs associated with the CHIP State plan population. Demonstration expenditures are limited to remaining funds.

5. Total expenditures for outreach and other reasonable costs to administer the title XXI State plan and the demonstration that are applied against the Commonwealth's title XXI allotment may not exceed ten percent of total title XXI net expenditures.

6. Premium contributions under the demonstration shall be reported to CMS on Form CMS-21 Waiver, line 29, in order to assure that the demonstration is properly credited with premium collections.

7. If the Commonwealth exhausts the available title XXI federal funds in a federal fiscal year during the period of the demonstration, the Commonwealth must continue to provide coverage to the approved title XXI state plan separate child health program population and the demonstration populations with Commonwealth funds.

ATTACHMENT B

QUARTERLY REPORT CONTENT AND FORMAT

Pursuant to STC 19 (Quarterly Progress Report) of these STCs, the Commonwealth is required to submit quarterly progress reports to CMS. The purpose of the quarterly report is to inform CMS of significant demonstration activity from the time of approval through completion of the demonstration. The reports are due to CMS 60 days after the end of each quarter.

The following report guidelines are intended as a framework and can be modified when agreed upon by CMS and the Commonwealth.

NARRATIVE REPORT FORMAT:

Title Line One – [name of demonstration]
Title Line Two – Section 1115 Quarterly Report

Demonstration/Quarter Reporting Period: [Example: Demonstration Year: 1 (7/1/2016 - 6/30/2017)

Federal Fiscal Quarter:

Introduction
Present information describing the goal of the demonstration, what it does, and the status of key dates of approval/operation.

Enrollment and Benefits Information
Discuss the following:

- Trends and any issues related to eligibility, enrollment, disenrollment, access, and delivery network.
- Any changes or anticipated changes in populations served and benefits. Progress on implementing any demonstration amendments related to eligibility or benefits.
- Enrollment activity under the demonstration, including enrollment counts for the quarter and demonstration year to date.

Outreach/Innovative Activities to Assure Access
Summarize marketing, outreach, or advocacy activities to potential eligibles and/or promising practices for the current quarter to assure access for demonstration participants or potential eligibles.

Operational/Policy/Systems/Fiscal Developments/Issues
A status update that identifies all other significant program developments/issues/problems that have occurred in the current quarter or are anticipated to occur in the near future that affect health care delivery, including but not limited to program development, quality of care, approval and contracting with new plans, health plan contract compliance and financial performance

relevant to the demonstration, fiscal issues, systems issues, and pertinent legislative or litigation activity.

Financial/Allotment Neutrality Development/Issues
Identify all significant developments/issues/problems with financial accounting or allotment neutrality reporting for the current quarter. Identify the Commonwealth's actions to address these issues.

Consumer Issues
A summary of the types of complaints or problems consumers identified about the program or grievances in the current quarter. Include any trends discovered, the resolution of complaints or grievances, and any actions taken or to be taken to prevent other occurrences.

Quality Assurance/Monitoring Activity
Identify any quality assurance/monitoring activity or any other quality of care findings and issues in current quarter.

Demonstration Evaluation
Discuss progress of evaluation plan and planning, evaluation activities, and interim findings.

Enclosures/Attachments
Identify any other attachments along with a brief description of what information the document contains.

Commonwealth Contact(s)
Identify the individual(s) by name, title, phone, fax, and address that CMS may contact should any questions arise.

Date Submitted to CMS

ATTACHMENT C

DEMONSTRATION EVALUATION PLAN *[ONCE APPROVED]*

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