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Sent: Friday, October 4, 2024 9:15 AM
To: Banks, Ivory (DMAS) <Ivory.Banks@dmas.virginia.gov>
Subject: FW: contingent liability

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Sent: Friday, October 4, 2024 8:57 AM
To: Gordon, Chris (DMAS) <Chris.Gordon@dmas.virginia.gov>; Lunardi, Jeff (DMAS) <Jeff.Lunardi@dmas.virginia.gov>
Cc: Whitlock, Tammy (DMAS) <tammy.whitlock@dmas.virginia.gov>; Hatton, Sarah (DMAS) <Sarah.Hatton@dmas.virginia.gov>
Subject: RE: contingent liability

The hard part is that we have no example where CMS asked states or tribes to do anything that did not support the tribes as the public good goal dominated and so the hypnosis is based on what you have experienced . And we have never seen this behavior silence etc from CMS –so many first and unknowns

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From: Gordon, Chris (DMAS) <Chris.Gordon@dmas.virginia.gov>
Sent: Thursday, October 3, 2024 8:23 PM
To: Lunardi, Jeff (DMAS) <Jeff.Lunardi@dmas.virginia.gov>
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Subject: contingent liability

Jeff:

The way to think about the impact of tribes on the forecast and the CMS-64 is whether or not DMAS has a contingent liability.

A contingent liability is an existing condition, situation, or set of circumstances involving uncertainty as to a possible loss that will ultimately be resolved when one or more future events occur or fail to occur.

The chart below is the guide that we use to make a determination on how to treat a contingent liability.

CMS-64:

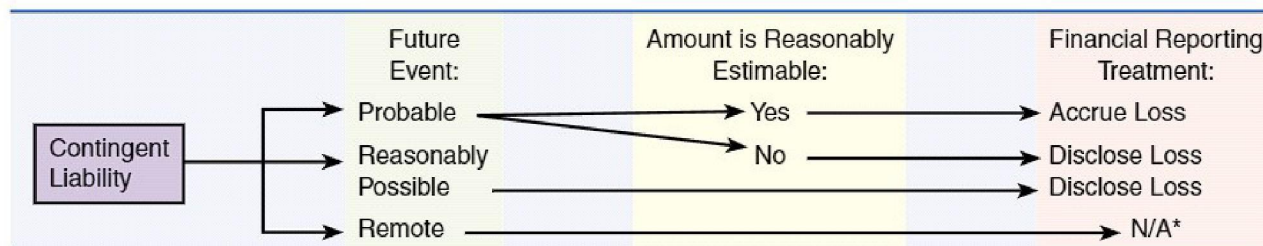
- Is there a contingent liability: given the 'unsettled' nature of the questions concerning the allowability of the tribal provider costs, it is appropriate to consider this issue a contingent liability.
- Future event: it is **reasonably possible** that DMAS will receive a deferral or disallowance if CMS takes negative action because the agency drew down FMAP for services not present in Virginia's approved state plan
- Amount is reasonably estimable: **DMAS can estimate the amount** of the retroactive payments for services paid with FMAP that are not present in Virginia's approved state plan

Redacted - VFOIA Exempt

Forecast:

- Is there a contingent liability? yes
- Future event: it is **reasonably possible** that DMAS will receive a deferral or disallowance if CMS takes negative action because the agency drew down FMAP for services not present in Virginia's approved state plan
- Amount is reasonably estimable: **DMAS can estimate the amount** of the retroactive payments for services paid with FMAP that are not present in Virginia's approved state plan
- Treatment: **DMAS will not include retroactive payments in the forecast** for a potential deferral or disallowance because it is only reasonably possible at

this time, *not probable*, that DMAS will receive a deferral or disallowance.
I hope this helps to explain Finance's thinking on this issue.



Chris Gordon

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Virginia Medicaid

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