



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

CHERYL J. ROBERTS, JD
DIRECTOR

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219

October 10, 2024

Via Email Only

Dear Mr. Darling,

We appreciate Fishing Point Healthcare's participation as a tribal Medicaid provider and its provision of health care services to Medicaid members. We are following up on our recent communications indicating the Department's initial understanding that services authorized through Virginia Medicaid's §1915(c) home and community-based services waiver, including personal care services, were not within the scope of our Tribal State Plan Amendment. After conferring with counsel, we have decided to seek guidance from the Centers for Medicare & Medicaid Services (CMS) and the Department of Health and Human Services (HHS) regarding this issue. *See Attachment.*

Until we receive clarity from CMS and HHS, we ask that Fishing Point cease submitting claims to DMAS for personal care services. **Please be aware that any claims for personal care services will be pended (not paid) while this matter is under review.**

Given the above, it is our expectation that Fishing Point will discontinue personal care services to all Medicaid members, whether provided directly or through a contracted service provider. DMAS will immediately begin working with you on a transition plan for all impacted members and include the managed care organizations to ensure each case is reviewed and the necessary care plans and service authorizations are in place, and transition the members' personal care services, with member continuity of care as our top priority.

We believe this is the best approach to avoid increasing any potential liability to Fishing Point with respect to these personal care services while the issue is being reviewed by CMS and HHS. We remain committed to continued consultation regarding any potential long-term changes that would require future State Plan or Waiver amendments.

Please note DMAS is continuing to review the scope of services Fishing Point is providing to Medicaid members, and DMAS may need further information from the Tribe to complete its review. DMAS requests that the Tribe provide a list of its Tribal members, as DMAS has a federal obligation to report separately services a Tribal facility provides to non-American Indian/non-Alaska Native Medicaid members.

Our hope is that we can partner together to seek a meeting with CMS to resolve this matter within the next 90 days. Please do not hesitate to contact the DMAS Chief Deputy, Jeff Lunardi, with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl J. Roberts". The signature is fluid and cursive, with a large initial "C" and "R".

Cheryl J. Roberts, JD
Director
Department of Medical Assistance Services

cc: Greg Werkheiser, Cultural Heritage Partners, PLLC
Jessie Barrington, Cultural Heritage Partners, PLLC
Caroline Brown, Brown & Peisch, PLLC
Beth Guggenheim, Virginia Office of the Attorney General
Jeff Lunardi, Department of Medical Assistance Services