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HOUSE JOINT RESOLUTION NO. 40
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Rules
on January 31, 2014)

(Patron Prior to Substitute—Delegate Albo)

Directing the Joint Legislative Audit and Review Commission to study the Virginia Medicaid program and Medicaid-funded nonemergency transportation services in the Commonwealth.

WHEREAS, the Virginia Medicaid program is the largest program in Virginia's budget, accounting for more than \$7.8 billion split between state and federal funds in FY 2014; and

WHEREAS, the Commonwealth's general fund budget for the Virginia Medicaid program has more than doubled over the past 10 years from \$1.8 billion in FY 2004 to \$3.7 billion in FY 2014; and

WHEREAS, the Virginia Medicaid program now composes almost 21 percent of the Commonwealth's general fund budget in FY 2014 compared with about 15 percent in FY 1984; and

WHEREAS, the Virginia Medicaid program has grown increasingly complex as the program has expanded to cover many nontraditional long-term care and behavioral and developmental disability services over the past 20 years; and

WHEREAS, the Virginia Medicaid program currently has more than 885,000 enrollees, an increase of more than 70 percent over the past 10 years; and

WHEREAS, the Virginia Medicaid program could experience the addition of up to 400,000 new enrollees should the Commonwealth decide to expand Medicaid pursuant to the federal Patient Protection and Affordable Care Act (PPACA) at a substantial annual cost by state fiscal year 2021 if the federal medical assistance percentage remains unchanged at 90 percent; and

WHEREAS, a recent study of Medicaid expansion found that Medicaid coverage significantly increases hospital emergency room usage by 40 percent; and

WHEREAS, the 2013 Session of the General Assembly directed the Department of Medical Assistance Services to implement a comprehensive value-driven, market-based reform of the Virginia Medicaid program to be implemented in three phases prior to any efforts to expand Medicaid to the newly eligible population; and

WHEREAS, the 2013 Session of the General Assembly established the Medicaid Innovation and Reform Commission (MIRC) to review, recommend, and approve innovation and reform proposals affecting the implementation of the Virginia Medicaid program, and charged the Commission with the responsibility of determining if the conditions of the reform proposals have been met and, if met, approving Medicaid coverage for newly eligible individuals pursuant to the PPACA; and

WHEREAS, the Department of Medical Assistance Services has reported to MIRC on the progress in meeting the conditions of reforms set out in Chapter 806 of the Acts of Assembly of 2013; and

WHEREAS, phase one reforms such as implementing a demonstration project to coordinate care for individuals who are dually eligible for Medicare and Medicaid and developing a new eligibility and enrollment information system for the Medicaid and other benefit programs have begun but are not yet fully implemented; and

WHEREAS, phase two reforms such as the implementation of value-based purchasing and new service delivery models for most of the current Medicaid enrollees are currently underway but have yet to be fully completed; and

WHEREAS, phase three reforms such as transitioning all remaining Medicaid enrollees into a coordinated care delivery system, including aged and disabled individuals receiving long-term care and home-based and community-based waiver services, are scheduled to be implemented in FY 2016 and will require careful planning to ensure that acute care and complex long-term care needs are appropriately coordinated; and

WHEREAS, the Department of Medical Assistance Services has reported that it currently has seven contracts in place to audit certain Medicaid services and comply with federal requirements to ensure Medicaid expenditures are properly made on behalf of eligible program enrollees; and

WHEREAS, new technology and better audit and utilization management activities can better inform the agency as it begins implementation of program reforms to implement value-driven, market-based reforms and to better manage and integrate the care of enrollees receiving long-term care and nontraditional behavioral and developmental disability services; and

WHEREAS the Department of Medical Assistance Services contracts with one company to provide nonemergency transportation to individuals with physical, intellectual, and other disabilities to assist them in getting to and from medical and other appointments; and

WHEREAS, numerous filed complaints about the transportation provider led to the development of a performance improvement plan in September 2012 to increase monitoring of the provider's performance,

60 yet the provider continues to demonstrate serious shortcomings in its performance; now, therefore, be it
61 RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and
62 Review Commission be directed to study the Virginia Medicaid program and Medicaid-funded
63 nonemergency transportation services in the Commonwealth.

64 In conducting its study, the Joint Legislative Audit and Review Commission (JLARC) shall review:

65 1. Current Medicaid audits and report on their scope, resources expended, their results, and agency
66 responses to findings;

67 2. Department of Medical Assistance Services efforts to identify and pursue third-party liability for
68 Medicaid payments with particular focus on long-term care asset recovery efforts;

69 3. The implementation status of recommendations made in the 2011 JLARC report titled "Mitigating
70 the Risk of Improper Payments in the Virginia Medicaid Program," assess the extent to which the new
71 eligibility modernization system will address issues related to improper payments on behalf of recipients
72 and recipient fraud, and review other states' efforts to prevent improper payments;

73 4. The utilization and regional variation in the use of high-volume, high-cost Medicaid services
74 delivered through the fee-for-service system, including hospital emergency room utilization; hospital
75 admissions and readmissions from long-term care facilities such as nursing homes, state intermediate
76 care facilities for the intellectually disabled (ICF-ID), community ICF-ID, and community congregate
77 homes serving individuals with intellectual and developmental disability; community-based in-home
78 personal care services; intensive in-home therapy for at-risk youth; and pharmacy services;

79 5. The reliability of instruments used to assess and develop service plans for community-based
80 long-term care services for the elderly and disabled; and

81 6. Medicaid-paid nonemergency transportation services, including the cost of existing contract,
82 provisions, and penalties for poor service, the Department of Medical Assistance Services' oversight of
83 the Commonwealth's contract, and other states' coverage and efforts to manage nonemergency
84 transportation services; and

85 7. Oversee an external financial audit and analysis of the Department of Medical Assistance Services.

86 The Joint Legislative Audit and Review Commission shall make recommendations on all issues
87 reviewed as appropriate.

88 All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review
89 Commission for this study, upon request.

90 The Joint Legislative Audit and Review Commission shall complete its meetings for the first year by
91 November 30, 2014, and for the second year by November 30, 2015, and the chairman shall submit to
92 the Division of Legislative Automated Systems an executive summary of its findings and
93 recommendations no later than the first day of the next Regular Session of the General Assembly for
94 each year. Each executive summary shall state whether the Commission intends to submit to the General
95 Assembly and the Governor a report of its findings and recommendations for publication as a House or
96 Senate document. The executive summaries and reports shall be submitted as provided in the procedures
97 of the Division of Legislative Automated Systems for the processing of legislative documents and
98 reports and shall be posted on the General Assembly's website.