



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: VICTORIA P. SIMMONS
Regulatory Coordinator
Department of Medical Assistance Services

FROM: PAIGE S. FITZGERALD
Assistant Attorney General

DATE: October 20, 2003

SUBJECT: Final Exempt Regulation concerning Home Health Services

I have reviewed the attached final exempt regulation concerning the criteria for providing home health services.

Based on that review, it is my view that the Director, acting on behalf of the Board, pursuant to Va. Code § 32.1-324, has the authority to promulgate this change to the State plan, without complying with the requirements of Article 2 of the Administrative Process Act and has not exceeded that authority.

The amendments to the regulation governing the standards for participation in the Medicaid program as a home health agency are necessary to correct an error that was recently discovered. The change made by this regulatory package is the striking of language requiring Medicare certification *and* accreditation by JCAHO and CHAP.¹ This change will conform the home health participation criteria to that allowed by Virginia Code § 32.1-162.8, as was intended by the previous change that

¹ JCAHO is the Joint Commission on the Accreditation of Healthcare Organizations and CHAP is the Community Health Accreditation Program.

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was made to this regulation in the 2003 Omnibus Mandatory Revisions regulatory package.² Based on the foregoing, it is my view that the promulgation of these amendments is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Va. Code §2.2-4006(A)(3).

If you have any questions, please feel free to call me at 786-3450.

Attachment

cc: Siran S. Faulders

² The previous change was published in the May 19, 2003 issue of the *Virginia Register* (Volume 19, Issue 18).