



Exempt Action Final Regulation Agency Background Document

Agency name	DEPT. OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30-120-760; 120-1020
Regulation title	Waiver Services: Skilled Nursing Services
Action title	Skilled Nursing Services in 15-Minute Increments
Final agency action date	August 1, 2013
Document preparation date	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulatory action changes the unit of service for skilled nursing services from one hour to 15-minute increments. This action affects the Intellectual Disability waiver and the Family and Individuals with Developmental Disabilities waiver. This action has no budget impact as the legislative mandate required that it be budget neutral.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background Summary with the attached amended regulations, Skilled Nursing Services in 15-Minute Increments (12 VAC 30-120-760 and -120-1020) and adopt the action stated therein. I certify that this final exempt regulatory action has completed all the requirements of the Code of Virginia § 2.2-4000 *et seq.*, of the Administrative Process Act.

/s/ 8/1/2013

/s/ Cynthia B. Jones

Date

Cynthia B. Jones, Director

Dept. of Medical Assistance Services

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services.

Chapter 806, Item 307 QQQQ of the *2013 Acts of the Assembly* stated:

"QQQQ. Effective July 1, 2013, the Department of Medical Assistance Services shall take the steps necessary to amend the Intellectual Disability Waiver and the Individual and Family Developmental Disabilities Support Waiver to change the unit of service for skilled and private duty nursing from the current one hour to one-quarter of an hour. The department shall implement this change using a methodology that is budget neutral."

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

The regulations that are affected by this action are the Skilled Nursing Services (12 VAC 30-120-760) in the Individual and Family Developmental Disabilities Support Waiver and Covered Services (12 VAC 30-120-1020) in the Intellectual Disabilities Waiver.

CURRENT POLICY

Currently, these two specified waivers provide skilled nursing services in increments of one hour. This has forced nurses, in order to be able to bill Medicaid, to work for an hour when, frequently, they could render the required medically necessary services in considerably less time.

RECOMMENDATIONS

DMAS is proposing to change the hourly increments for skilled nursing services to 15-minute increments to enable these affected nurses to work for a portion of an hour and still be reimbursed by Medicaid and to assure compliance with Item 307 QQQQ of the 2013 *Acts of Assembly*.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; nor encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.