



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*  
*Richmond 23219*

**Jerry W. Kilgore**  
Attorney General

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**MEMORANDUM**

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

**FROM:** **KIM F. PINER**  
Special Counsel to DMAS

**DATE:** **July 28, 2003**

**SUBJECT:** **Proposed Regulations concerning HIV/AIDS Waiver Program**

I am in receipt of your proposed regulations concerning the HIV/AIDS Waiver program. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services has the legal authority pursuant to Executive Order 21 (2002) to promulgate the attached proposed regulations and to identify any federal or state mandates regarding this regulation.

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 these amendments to the State Plan, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. These regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to promulgate changes to the HIV/AIDS Waiver, including adding coverage of consumer-directed personal assistance services and consumer-directed respite care services.

If you have any questions or need any additional information, please feel free to call me at 786-3524.

cc: Siran S. Faulders, Esquire  
Brian M. McCormick, Esquire (DMAS)

Attachment