



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

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MEMORANDUM

TO: RENEE WHITE
Regulatory Coordinator
Virginia Department of Medical Assistance Services

FROM: USHA KODURU
Assistant Attorney General

DATE: October 4, 2005

SUBJECT: Fast Track Regulation to Provide Transitional Funding

I am in receipt of the attached regulation to provide limited financial assistance to Medicaid recipients who have moved from an institutional environment back into the community. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services (“DMAS”) has the legal authority to promulgate the regulation and if the regulation comports with state and federal law.

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 make changes to the regulations to allow DMAS to amend the AIDS Waiver, the IFDDS Waiver, the MR Waiver and the Technology Assisted Waiver to include a \$4,000 per person limit on one-time expenses for individuals who are transitioning from institutional care to a community. However, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the Department of Medical Assistance Services shall (i)

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file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you have any questions or need additional information, please contact me at 786-4905.

cc: Kim F. Piner, Esquire

Attachment