Form: TH-09
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Exempt Action
Final Regulation
Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation(s)	12 VAC 30-70-271, 30-70-331, 30-70-341 12 VAC 30-80-30, 30-80-36, 30-80-190
Regulation title(s)	Payment for capital costs; Statewide operating rate per case; Statewide operating rate per day; Fee-for-service providers; Fee-for-service providers: outpatient hospitals; State agency fee schedule for RBRVS.
Action title	2019 Provider Reimbursement Changes
Final agency action date	9/16/2019
Date this document prepared	9/16/2019

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations.*

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The 2019 General Assembly session produced a number of items related to provider reimbursement within Medicaid. These changes include the following: 1) revisions to increase reimbursement for Critical Access Hospitals; 2) supplemental payments for the second and third years of graduate medical education for 13 funded slots for residents; 3) an increase in the practitioner rates for adult primary care and Emergency Department services; 4) an increase in the

practitioner rates for psychiatric services; 5) an increase in the telehealth originating site facility fee; 6) a modification in the reimbursement for Hospice services; and 7) an increase in the rates for personal care in Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program.

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 entitled "2019 Provider Reimbursement Changes" and adopt the action stated therein. I certify that this final exempt regulatory action has completed all the requirements of the Code of Virginia § 2.2-4006(A), of the Administrative Process Act.

9/16/2019	/signature/
Date	Karen Kimsey, 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.

Section 32.1-325 of the Code of Virginia authorizes the Board of Medical Assistance Services to administer and amend the State Plan for Medical Assistance and to promulgate regulations. Section 32.1-324 of the Code of Virginia authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the State Plan for Medical Assistance and to promulgate regulations according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the Social Security Act (42 USC § 1396a) provides governing authority for payments for services.

This action is being promulgated as a final exempt according to 2.2-4006 A 4 a of the Code of Virginia, as necessary to conform to changes in the appropriation act where no agency discretion is involved.

The legal basis for each of the following regulatory changes included in this package are:

1. Revisons to increase reimbursement for Critical Access Hospitals by using an adjustment factor or percent of cost reimbursement of 100% for inpatient operating and capital rates and outpatient rates, effective July 1, 2019. (2019 Appropriations Act, Item 303.ZZZ.)

2. Supplemental payments for the second and third years of graduate medical education for 13 funded slots for residents who began their residencies in July 2018, the first year of graduate medical education of 20 funded slots for residencies in July 2019, and two one-year post graduate fellowships in July 2019. (2019 Appropriations Act, Item 303.EEE 4b and 4c.)

3. Increase the practitioner rates for adult primary care services by five percent and rates for Emergency Department services by one percent to reflect the equivalent of 70 percent of the 2018 Medicare rates. (2019 Appropriations Act, Item 303.CCCC.)

4. Create a separate service category for psychiatric services and to increase practitioner rates for psychiatric services by 21 percent to reflect the equivalent of 100 percent of the 2018 Medicare rates. (2019 Appropriations Act, Item 303.DDDD)

5. Increase the telehealth originating site facility fee to 100 percent of the Medicare rate and to reflect changes annually based on any changes in the Medicare rate. DMAS shall exempt Federally Qualified Health Centers and Rural Health Centers from this reimbursement change. (2019 Appropriations Act, Item 303.XXX.)

6. Modify reimbursement for Hospice services provided to patients residing in facilities to include at least 100 percent of the relevant Medicaid facility rate for that individual. (2019 Appropriations Act, Item 303.WWW.)

7. Increase the rates for personal care in Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program by two percent. (2019 Appropriations Act, Item 303.NNN.)

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 changes in this regulatory package will meet the General Assembly mandates related to provider reimbursement within Medicaid. The changes are designed to ensure that DMAS can attract and retain a sufficient number of health care providers to offer services to Medicaid members.

Periodic Review
Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the proposed stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the

economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

This regulatory action is not the result of a periodic review or small business impact review.