



**Virginia  
Regulatory  
Town Hall**

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**Final Regulation  
Agency Background Document**

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| <b>Agency Name:</b>        | Dept. of Medical Assistance Services; 12 VAC 30 |
| <b>VAC Chapter Number:</b> | Chapter 120                                     |
| <b>Regulation Title:</b>   | Managed Care                                    |
| <b>Action Title:</b>       | Medallion II                                    |
| <b>Date:</b>               | 9/10/2002; GOV ACTION NEEDED BY 10/1/2002       |

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

**Summary**

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

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Chapter 1073 of the 2000 Acts of Assembly Item 319 K directed the Agency to seek federal approval of certain changes to its Medallion II program. The purpose of the mandated changes was to bring this waiver program into compliance with recent federal law changes as well as other federal changes and changes which reflect industry standards of practice.

### Changes Made Since the Proposed Stage

*Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.*

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There are no changes in these final adopted regulations over those which were proposed for public comment.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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I hereby approve the foregoing Regulatory Review Summary with the attached amended State Plan pages and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

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Date

Patrick W. Finnerty, Director

Dept. of Medical Assistance Services

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.*

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The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of

Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 2.2-4000, for an agency's promulgation of proposed regulations subject to the Governor's review.

Subsequent to an emergency regulation adoption action, the Agency initiated the public notice and comment process as contained in Article 2 of the APA. The emergency regulation became effective on December 1, 2001. The Code, at § 2-2-4011, requires the Agency to file the Notice of Intended Regulatory Action within 60 days of the effective date of the emergency regulation if it intended to promulgate a permanent replacement regulation. The Notice of Intended Regulatory Action was filed with the Virginia Registrar on November 30, 2001.

### Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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The purpose of this action is to promulgate new permanent regulations, to supercede the existing permanent regulations and the currently operating emergency regulations, to bring this waiver program into compliance with recent Federal law changes as well as other federal changes, changes to industry standards of practice, and to make certain other programmatic changes necessary for the improved efficiency and effectiveness of this program.

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.*

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The regulations affected by this action are Medallion II (12 VAC 30-120-360 through 12 VAC 30-120-440).

The purpose of this action is to conform the regulations of the Medallion II waiver to federal law changes contained in the 1997 Balanced Budget Act, requirements of the Health Care Financing Administration (HCFA) (now the Centers for Medicare and Medicaid Services (CMS)), and state industry standards.

Based on changes enacted by the Balanced Budget Act of 1997, and new waiver requirements of CMS, the Agency is required to implement new program regulations. Additionally, the Agency must conform its regulations to Item 319K of the Governor's 2000 budget language. This language required the Agency to modify the process by which Medicaid recipients are enrolled

into managed care programs. Even though the Governor's budget was not adopted as an Appropriations Act, neither the House Appropriations committee nor the Senate Finance committee objected to this provision.

Major changes to the Medallion II regulations include:

- Rescinding of 12VAC30-120-385. This provision previously provided that mental health services to recipients in Northern Virginia would be provided outside of any MCO on a fee-for-service basis. In order to fully implement managed care services within the Northern Virginia area, this section must be repealed. If the Agency is unable to permanently implement managed care services in Northern Virginia, the lack of MCOs would have an impact on the delivery of quality managed care services to citizens of Northern Virginia.
- Shortening of the pre-assignment process - 12VAC30-120-370. This regulatory change would allow recipients to be enrolled into managed care sooner by reducing the current waiting period of 45 days to 30 days. This reduction in the waiting period would allow a recipient to more efficiently access quality managed health care. The shortening of the pre-assignment process was mandated in Chapter 1073 of the 2000 Acts of Assembly Item 319K.
- Changes in which Medicaid recipients may be excluded from the program - 12VAC30-120-370. This change excludes participants in residential treatment or treatment foster care programs from participating in managed care programs.

This regulation further allows for recipients receiving managed care services in areas where there is only one contracted Managed Care Organization (MCO) to have a choice of enrolling with the contracted MCO or the area's Primary Care Case Management (PCCM) programs. All eligible recipients in areas where one contracted MCO exists, however, are automatically assigned to the contracted MCO. Once assigned to the MCO or PCCM program, individuals are allowed to change from either the contracted MCO to the PCCM program or vice versa within 90 days after the effective date of enrollment. This regulatory change would bring the regulations into compliance with the waiver which CMS recently approved and allow the Agency to implement the expansion of the MCO program statewide. Without this change, the legislatively mandated expansion cannot proceed.

## Issues

*Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

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Compliance with new provisions will allow the Commonwealth to meet specific managed care objectives such as broadening access to care and ultimately improving health outcomes for recipients. Likewise, shortening the pre-assignment process allows recipients to enroll in

managed care programs sooner; thereby increasing access to care, and again, improving health outcomes.

Recipients residing in areas where there is only one contracted MCO now have a choice of enrolling with either the MCO or PCCM program. Recipients are also afforded more flexibility by being able to change programs within 90 days of their original effective date.

Additional enhancements include mental health services offered through the MCO for Northern Virginia recipients; thereby paving the way for all services to be provided within the same program. These revisions also assure compliance with recent Federal changes and industry standards and allow for certain programmatic changes necessary to improve efficiency and effectiveness. Furthermore, compliance with federal changes assures that the Commonwealth will not be in danger of loss of federal financial participation for the program. The revised definitions are consistent with current Federal definitions.

### Public Comment

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

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DMAS' proposed regulations were published in the June 17, 2002, *Virginia Register* for their public comment period from June 17 through August 16, 2002. No comments were received.

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

|  |   |
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| 12 VAC 30-120-360  | Added language to emergency services definition to include participating and non-participating providers; clarifies definition to ensure access to care   |
|  | Added definition of Managed Care Organization and PCCM  |
|  | Added definition of exclusion   |
| 12 VAC 30-120-370 B6<br>B10<br>B 7 through B 8, 11, 12,<br>13<br>D 3 | Added residential treatment or treatment foster care programs to list of exclusions;<br>Deletes individuals with comprehensive insurance from exclusion in program;<br>Change HMO to MCO (editorial, technical correction) ;<br>Changes pre-assignment days from 45 to 30 |
| 12 VAC 30-120-370 D 4<br>through E3                                  | Change HMO to MCO (editorial, technical correction)   |

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| 12VAC30-120-370 E 4                | Added language for one MCO per region  |
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| 12VAC30-120-370 F through H        | Change HMO to MCO or PCCM  |
|                                    |  |
| 12VAC 30-120-380 A & B             | Change HMO to MCO or PCCM; Language deleted relating to Emergency services           |
|                                    |  |
| 12VAC 30-120-380 D through G and L | Change HMO to MCO (editorial, technical correction)                                  |
|                                    |  |
| 12VAC30-120-380 K                  | Deletes language relating to case management   |
|                                    |  |
| 12 VAC 30-120-385                  | Repeals expired budget language in order to implement Northern Virginia Medallion II |
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| 12 VAC 30-120-390                  | Change HMO to MCO (editorial, technical correction)                                  |
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| 12 VAC 30-120-395                  | Change HMO to MCO (editorial, technical correction)                                  |
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| 12 VAC 30-120-400 A through C      | Change HMO to MCO (editorial, technical correction)                                  |
|                                    |  |
| 12 VAC 30-120-410 B through F      | Change HMO to MCO (editorial, technical correction)                                  |
|                                    |  |
| 12 VAC 30-120-420 A through M      | Change HMO to MCO (editorial, technical correction)                                  |

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) 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; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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Implementation of the new regulations would allow the citizens of the Commonwealth to continue receiving quality health care through the expansion of managed care; allowing exemptions under specific circumstances for children with special health care needs; allowing recipients to receive services under managed care earlier, thereby establishing the physician/patient relationship, and allowing pregnant women to receive quality prenatal care earlier.

Only to the extent that these managed health care programs provide improved quality of care will this regulatory action have any impact on the institution of the family and family stability including strengthening or eroding the authority and rights of parents in the education, nurturing, and supervision of their children; encouraging or discouraging economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents, strengthening or eroding the marital commitment; and increasing or decreasing disposable family income.