



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Jerry W. Kilgore
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
804-371-8947 TDD

MEMORANDUM

TO: **BRIAN MCCORMICK**
Regulatory Coordinator
Department of Medical Assistance Services

FROM: **KIM F. PINER**
Senior Assistant Attorney General

DATE: **October 17, 2005**

SUBJECT: Proposed Fast-Track Regulations concerning Conforming DSH Limit to Federal Legislation

I have reviewed the attached proposed regulations regarding changes that would conform DSH limitations to federal legislation. 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. 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) 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.

These regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to make the changes to the regulations governing the DSH limit. The authority for these proposed regulations derives from 42 U.S.C. § 1396r-4.

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

Attachment