



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Dept. of Medical Assistance Services 12 VAC 30
VAC Chapter Number:	100
Regulation Title:	Health Insurance for the Working Uninsured Individuals
Action Title:	Eligibility Requirements
Date:	4/5/2000

This information is required pursuant 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*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulatory action will promulgate the requirements that individuals must meet in order to be eligible for this assistance.

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 must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

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) §§9-6.14:7.1 and 9-6.14:9.1, for this agency's promulgation of proposed regulations subject to the Governor's review. Sections 32.1-332 and 32.1-333 of the Code of Virginia specifically authorize DMAS to administer the Virginia Indigent Health Care Trust Fund and to promulgate regulations concerning the Fund.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed 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.

The purpose of this proposal is to promulgate the eligibility requirements for individuals who can qualify for the health care coverage to be provided by this program. This will benefit their health by helping these individuals to purchase their own health insurance.

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 providing detail of the regulatory action's changes.

The section of the regulations affected by this action is Health Insurance Program for the Working Uninsured Individuals: Program Subscribers (12 VAC 30-100-420).

In 1993, in an effort to address the problem of some individuals lacking health insurance (the uninsured) in Virginia, the General Assembly passed Senate Joint Resolution 315. This resolution directed the Technical Advisory Panel (TAP) of the Indigent Health Care Trust Fund

(Trust Fund) to support strategies that would increase the number of Virginians with health insurance. (The Trust Fund was established to help offset some of the charity care provided by Virginia's private acute care hospitals, and it is funded with a combination of state general fund appropriations and private hospital donations.) The TAP, working with DMAS staff, has developed a proposal to use a portion of the contributions to the Trust Fund to test a method to expand health insurance coverage to the uninsured who are employed by small businesses, and to provide subsidies to low-income employees who could not otherwise afford to participate.

The program aims to reduce charity care costs provided in hospitals. Subsidizing health insurance premiums and providing a medical benefits package which includes primary as well as preventive health care services through a managed care plan should reduce unnecessary hospitalizations and emergency room care for the uninsured population. Providing health insurance through a public/private partnership involving employers, employees, and health care providers will help leverage Trust Fund contributions with additional funds from individuals and businesses. The program may provide timely support for individuals who have recently come off welfare by providing health insurance through small businesses which otherwise may not have offered this benefit.

Finally, this program will provide Virginia with a chance to test the provision of health insurance premium subsidies on a small scale with the possibility of later expanding to a statewide program.

Findings of a recent study from the Center on Budget and Policy Priorities (CBPP) in Washington, D.C., revealed that 46% of the 4.9 million working parents with incomes below 100% of the federal poverty level (FPL) (\$13,650 annually for a family of three), lacked health care insurance in 1997. For working parents with incomes below 200% FPL (\$27,300 annually for a family of three) the national uninsurance rate was 34.5%. The study suggested that while changes in the welfare system and a healthy economy have led to more parents working, many are employed in low-paying jobs without health insurance benefits. In fact, poor parents who worked 13 or more weeks during 1997 were two times more likely to be uninsured than their unemployed counterparts (46% vs. 23%). The lack of health insurance coverage for low-wage working parents can undermine the goals of welfare reform by forcing low-income parents with a medical condition, or a chronically sick child, to choose between their jobs and their own, or their child's, health.

These regulations establish the needed eligibility requirements, including Virginia residency, for the Health Insurance Program for Working Uninsured Individuals. The regulations also describe the application, enrollment, and disenrollment processes.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary 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.

The program is an incremental approach to health care reform, and one which will not involve any additional funds on the part of the state. The program will be funded with donations from hospitals that have expressed an interest in implementing a pilot site in their service area.

These regulations provide an advantage to the Commonwealth, recipients, and insurers in that this program will provide insights into what kind of coverage, and at what price, will induce this low-income working population to purchase health insurance. The program will help determine to what extent the premium subsidies help employees obtain health insurance for themselves and their dependents, and to what extent the provision of subsidies serves as an incentive for small businesses to offer health insurance to their employees. Employing a public-private partnership with various cost-sharing mechanisms, and allowing each contributor to leverage their contribution and multiply its effect, will provide preliminary information on total funding needed for a large scale effort to provide health insurance to this population.

These regulations define, in a fair and equitable manner, who is eligible to receive premium subsidies, how beneficiaries will be enrolled and disenrolled, and what appeal rights they have. The agency projects no negative issues involved in implementing this proposed change.

The primary advantage of this program for the working poor is that it will support them in their efforts to become economically self-sufficient. The advantage to taxpayers results from these individuals' assumption of their health care costs which will lower the demand for tax dollars. The advantage to the Commonwealth, and its public hospitals, of this program is the reduced demand for tax dollars with the reduced need to provide charity care. The only disadvantage is that some individuals may see this program as one more "give-away" program for the poor.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

This program does not require any additional general fund tax dollars. The funds to start the project will come from contributions or donations from hospitals. Two or three health systems have expressed an interest in donating money for the project. In exchange for donating these funds, the hospitals have requested that DMAS contract with their own managed care plan to provide health services to residents in their own service area. The funds donated by the hospitals will be administered by DMAS and will be leveraged by requiring the employers and employees

to contribute towards the cost of providing health insurance. Thus, the total cost of the health insurance premiums will be shared between the employers, employees, and the program subsidy. This program is not a Medicaid entitlement program.

Estimates based on an initial proposed donation of \$1.3 million for the two year demonstration project indicated that approximately 750 policies, providing health insurance for approximately 1700 people, could be issued.

Funding Source/Cost to Localities/Affected Entities: Sections 32.1-332 and 32.1-333 of the Code of Virginia specifically authorize DMAS to administer the Virginia Indigent Health Care Trust Fund and to promulgate regulations concerning the Fund. The fund source and detail are 0240 for premium subsidies and 0100 for administration. The program/subprogram are 45902 for premium subsidies and 47901 for administration. The amount of premium subsidies depends on donations and administrative expenses are estimated to total \$77,000. This total represents \$7,000 for one-time computer system modifications and staff resources and \$70,000 for one staff person to process applications and review eligibles for benefits.

Administrative costs to DMAS for this number of individuals and policies for the demonstration period would be approximately \$67,950. For both years' personnel costs, DMAS estimates salary and fringe benefits to be \$63,950. For both years' automated system development and maintenance, DMAS estimates \$4,000.

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 cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

The entire section 420 is new text and includes the requirement that individuals determined eligible for this premium assistance are Virginia residents.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The Department considered the need for regulations during the implementation of the Health Insurance Demonstration Project. The Department sought advice from the Office of the Attorney General, who concluded that the Department was required to promulgate regulations prior to implementing the demonstration project.

Senate Joint Resolutions 315 (1993) and 316 (1995) directed the Technical Advisory Panel (TAP) of the Indigent Health Care Trust Fund (Trust Fund), in cooperation with the Board of Medical Assistance Services and the Joint Commission on Health Care, to convert the Trust Fund into a program to increase the number of Virginians with health insurance. The TAP recommended that the Trust Fund be converted to provide health insurance to the working uninsured, that a pilot be established to test the proposal, and that matching federal funds be obtained to provide reinsurance for low wage workers. The Department was tasked to provide technical assistance in this effort.

Many alternative methods of implementing this project have been considered throughout the planning stages of this project. The Department has made every attempt to assure that the implementation of this project is handled in the least intrusive way possible. For example, the eligibility criteria have been reviewed to limit them to those which are considered absolutely essential. The eligibility determination process has been kept as simple as possible to avoid unnecessary burdens on the beneficiaries. To assure that all possible alternatives have been considered, the Department remains fully committed to considering any alternatives identified through the public comment process.

One of the major goals of the demonstration project is to try to make health insurance premiums more affordable for low-income working employees and for small businesses. The Department has attempted to cover the greatest number of individuals while at the same time providing meaningful health care benefits to eligible individuals. A managed care health plan will be used to provide the health care services in order to hold down the cost of these services. In keeping with recent health insurance reforms directed at the small employer market, the project proposes to cover employees of small businesses (from 2 to 25 employees), and to require that health plans provide the essential health benefits plan.

The original proposal attempted to lower the cost of premiums by providing reinsurance to the health plans and by providing premium subsidies to eligible employees. An actuarial firm has advised the Department that the reinsurance plan does not appear to be feasible, given the small number of people who will be served by this pilot effort. The Department brought this issue before the TAP at a meeting held on July 30, 1996. The TAP voted to eliminate the concept of reinsurance from this project. Relying on the provision of premium subsidies as a means of lowering the cost of premiums will enable a greater number of people to be served. Thus, this alternative represents a more effective use of the limited funds available for this project.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

There were no public comments during the NOIRA comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

DMAS has examined these regulations and, in so far as is possible, has ensured that they are clearly written and easily understandable by the individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Department of Medical Assistance Services routinely monitors the implementation of new programs through its ongoing management activities. This program will be included in that process.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential 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.

These regulations will support the role of parents by permitting them to purchase their own family health insurance, through their employers, to provide coverage for their children. It will help parents nurture their children through the provision of complete acute and preventive health care services (through the use of 'medical homes') rather than merely sporadic emergency room services. This program will encourage economic self-sufficiency and the assumption of responsibility by adults for themselves and their children by making available health insurance coverage. This program proposes to provide small financial supports to enable these working, but poor, individuals to purchase their own health insurance. This program will also teach the importance of purchasing insurance that one day may be necessary.

This program is not expected to have any impact on local departments of social services as it does not affect eligible groups or the eligibility determination process.