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Exempt Action Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30-70, 12 VAC 30-80, 12 VAC 30-90
Regulation title	Methods And Standards For Establishing Payment Rates - Inpatient Hospital Services; Methods And Standards For Establishing Payment Rates; Other Types Of Care; Methods And Standards For Establishing Payment Rates For Long-Term Care
Action title	2011 Budget Reimbursement Changes
Final agency action date	
Document preparation date	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Department of Medical Assistance Services (DMAS), implemented rate reductions effective July 1, 2010, affecting many providers as required by the 2010 Appropriation Act. The Appropriation Act also directed DMAS to reverse some of these rate reductions if Congress extended through June 30, 2011, the additional federal funding for Medicaid originally included in the American Recovery and Reinvestment Act of 2009. In early August, Congress passed an extension of the federal funding but at a lower level than originally anticipated. Based on the authority under Item 297.KKKK of the 2010 Appropriation Act, the Governor authorized

modifications to the restorations consistent with available funding and the Governor's decision was made to rescind these rate cuts effective for dates of service from October 1, 2010 through June 30, 2011. The 2011 Appropriation Act reversed some of the rate changes and made some additional changes effective July 1, 2011. These 2010 rate changes described in this package were implemented based on mandates authorizing DMAS to make reimbursement changes prior to completion of the regulatory process. The 2010 reimbursement changes shall be retained in the regulation language for cost settlement and appeal purposes until the settlement and appeal periods have expired.

The state regulations that are affected by this action are:

12VAC30-70-50 (Hospital Reimbursement System), 12VAC30-70-271 (Payment for Capital Costs), 12VAC30-70-291 (Payment for indirect medical education costs), 12VAC30-70-331 (Statewide operating rate per case), 12VAC30-70-341 (Statewide operating rate per day), 12VAC30-80-20 (Services that are reimbursed on a cost basis), 12VAC30-80-30 (Fee-for-service providers), 12VAC30-80-190 (State agency fee schedule for RBRVS), 12VAC30-90-36 (Nursing Facility Capital Payment Methodology), 12VAC30-90-41 (Nursing facility reimbursement formula).

Reimbursement Changes Affecting Inpatient Hospital Services (12VAC 30-70 and 12VAC30-80)

12VAC30-70-50 is being amended to eliminate the incentive plan for long stay hospitals effective for dates of service July 1, 2010 to September 30, 2010. Effective for dates of service on or after October 1, 2010, the incentive plan will be reinstated. This change is mandated to comply with Item 297.AAA as modified by the Governor under the authority in Item 297.KKKK for dates of service October 1, 2010 through June 30, 2011.

12VAC30-70-271 is being amended to reduce hospital inpatient capital reimbursement from 75 to 72 percent of cost for Type Two hospitals effective for dates of service July 1, 2010 to September 30, 2010. Effective for dates of service October 1, 2010 through June 30, 2011 hospital capital reimbursement will be reimbursed at 75 percent of cost for Type Two hospitals. Effective July 1, 2011, hospital capital reimbursement will be decreased to 71 percent of costs. Corresponding changes will be made for Type One hospitals and Type Two hospitals with greater than 50% Medicaid utilization. These changes are mandated by Item 297.HHHH as modified by the Governor under the authority in Item 297.KKKK for dates of service October 1, 2010 through June 30, 2011.

12VAC 30-70-291 is being amended effective July 1, 2011 to restore indirect medical education payments to hospitals with high Medicaid neonatal intensive care unit utilization, excluding freestanding children's hospitals. These changes are mandated in Item 297.MMM of the Appropriation Act.

12VAC30-70-331 and 12VAC30-70-341 are being amended to reduce the hospital adjustment factor for acute care and rehabilitation inpatient services for Type Two hospitals from 78 percent to 75 percent of cost and the adjustment factor for psychiatric inpatient hospital services from 84 percent to 81 percent of cost, effective for dates of service July 1, 2010 to September 30, 2010.

Effective for dates of service on or after October 1, 2010, the hospital adjustment factor for acute care and rehabilitation inpatient services for Type Two hospitals will be 78 percent of cost and the adjustment factor for psychiatric inpatient hospital services will be 84 percent of cost. Corresponding changes will be made for Type One hospitals. These changes are mandated by Item 297.AAAA as modified by the Governor under the authority in Item 297.KKKK for dates of service October 1, 2010 through June 30, 2011.

12VAC30-70-420 is being amended to reduce operating rates for out-of-state non cost-reporting hospitals to the lesser of the home state's reimbursement or the statewide average of operating rates. This change is mandated by Item 297.ZZZ of the Appropriation Act.

Reimbursement Changes Affecting Other Types of Care

12VAC30-80-20 is being amended to reduce outpatient hospital reimbursement from 80 to 77 percent of cost, effective for dates of service July 1, 2010 to September 30, 2010. Effective for dates of service October 1, 2010 through June 30, 2011, outpatient hospital reimbursement will be 80 percent of cost. Effective July 1, 2011, outpatient hospital reimbursement will be reduced to 76 percent of cost. Corresponding changes will be made for Type One hospitals. These changes are mandated by Item 297.BBBB as modified by the Governor under the authority in Item 297.KKKK for dates of service October 1, 2010 through June 30, 2011.

12VAC30-80-30 is being amended to establish supplemental payments for physician practices affiliated with freestanding children's hospitals with more than 50 percent Medicaid inpatient utilization in state fiscal year 2009 based on the difference between the upper payment limit approved by the Centers for Medicare and Medicaid Services and the reimbursement otherwise payable to physicians effective July 1, 2011. DMAS added paragraph 17 to establish and define this new supplemental payment. The first part of paragraph 17 defines the group eligible for the payment, in accordance with Item 297.LLLL. The second paragraph describes the formula used to calculate the payment based on the requirements of the mandate. These changes are mandated by Item 297.LLLL.

12VAC30-80-190 is being amended to reduce by three percent, the fees for all procedures set through the RBRVS process effective for dates of service July 1, 2010 to September 30, 2010. Effective for dates of service on or after October 1, 2010, the three percent reduction to fees for all procedures set through the RBRVS process will be rescinded. These changes are mandated by Item 297.CCCC as modified by the Governor under the authority in Item 297.KKKK for dates of service October 1, 2010 through June 30, 2011.

Reimbursement Changes Affecting Nursing Facilities (12 VAC 30-90)

12VAC30-90-36 is being amended to reduce the nursing facility capital rental rate floor from 9.00 percent to 8.75 percent effective for dates of service July 1, 2010 to September 30, 2010. Effective for dates of service October 1, 2010 through June 30, 2011, the nursing facility capital rental rate floor will be 9.00 percent. Effective July 1, 2011, the nursing facility capital rental rate floor will be reduced to 8.00 percent. These changes are mandated by Item 297.DDD.1c. as modified by the Governor under the authority in Item 297.KKKK for dates of service October 1, 2010 through June 30, 2011.

12VAC30-90-41 is being amended to reduce nursing facility operating rates by three percent effective for dates of service July 1, 2010 to September 30, 2010. Effective for dates of service on or after October 1, 2010, the three percent decrease to nursing facility operating rates will be rescinded. These changes are mandated by Item 297.DDD.1c as modified by the Governor under the authority in Item 297.KKKK for dates of service October 1, 2010 through June 30, 2011.

This action meets the exemption provided by the Code of Virginia 2.2-4006 (A) (4) (a) because it conforms these attached regulations to the requirements mandated by the 2011 Appropriations Act and does not materially differ. Additionally, the Agency has no discretion concerning the implementation of this action.

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 document with the attached regulations (12VAC 30-70-50, 271, 291, 331, 341, 420; 12 VAC 30-80-20, 30, 190 and 12VAC 30-90-36, and 41, 2011 Budget Reimbursement Changes) 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. I hereby certify that these regulations are full, true, and correctly dated.

Date

Gregg A. Pane, Director
Dept. of Medical Assistance Services

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or 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. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.

