



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: **BRIAN MCCORMICK**
Regulatory and Manual Section Manager
Department of Medical Assistance Services

FROM: **ELIZABETH M. GUGGENHEIM** 
Assistant Attorney General

DATE: **June 18, 2014**

SUBJECT: **Final Regulations Regarding Mental Health Services Program Changes to Ensure Appropriate Utilization and Provider Qualifications**

I have reviewed the final regulations that will ensure appropriate utilization, cost efficiency and provider qualifications appropriate to render mental health Medicaid covered services. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services (DMAS) has the legal authority to promulgate the final regulations and if the final regulations comport with state and federal law.

Based on that review, it is this Office's view that DMAS has the authority, subject to compliance with the provisions of Article 2 of the Administrative Process Act (APA), and has not exceeded that authority.

Please note that pursuant to § 2.2-4013(C), if the Governor finds that one or more changes with substantial impact have been made to the proposed regulation, he may (but is not required to) direct DMAS to provide additional thirty days to solicit additional public comment on the changes. In addition, Virginia Code § 2.2-4015 requires the agency to solicit additional public comment, if it receives requests from at least twenty-five persons for an opportunity to submit oral and written comments on the changes to the regulation and if one or more changes with substantial impact were made to the proposed regulation.

If you have any questions, please contact me at 786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General