



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory Supervisor
Virginia Department of Medical Assistance Services

FROM: JENNIFER L. GOBBLE
Assistant Attorney General

DATE: April 10, 2013

SUBJECT: Proposed Regulation - Exception Criteria to Limit on Personal Care Service Hours

I have reviewed the attached proposed regulations that would implement exceptions to the cap on personal care service hours.

The changes in these proposed regulations first were made by the promulgation of emergency regulations. These changes will enable the Director, in lieu of the Board of Medical Assistance Services, to comply with the mandate of the General Assembly in Chapter 890, Item 297 CCCCC of the 2011 Appropriations Act. Based on my review, it is this Office's view that the Director of the Department of Medical Assistance Services ("DMAS"), acting on behalf of the Board of Medical Assistance Services pursuant to Virginia Code § 32.1-324, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Virginia Administrative Process Act ("APA") and has not exceeded that authority.

cc: Kim F. Piner, Esquire
Attachment