



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory Supervisor
Department of Medical Assistance Services

FROM: MARY-GRACE MENDOZA
Assistant Attorney General

DATE: June 22, 2012

**SUBJECT: Fast Track Submission - Update to Medicaid Works Income Limit
(12 VAC 30-40-280)**

This memorandum responds to your request that this Office review the amendment to 12 VAC 30-40-280, "Update to Medicaid Works Income Limit," which raises the income limit for the Medicaid Works Buy-In program to the maximum allowed (\$75,000 per year) under the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170, Section 201. In addition, the amendment changes eligibility policy by allowing a disregard for (1) any increase in the amount of unearned income in the Social Security Disability Insurance (SSDI) payment resulting from employment as a worker with disabilities eligible for assistance under the Ticket to Work and Work Incentives Improvement Act, or due to a Cost of Living Adjustment (COLA) adjustment to the SSDI payment; and (2) any unemployment insurance payments received by an enrollee due to loss of employment through no fault of his own.

Based on my 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.

The change to the regulation is required by HB2384/Chapter 506 of the 2011 General Assembly. Accordingly, it is my view that this action was properly promulgated under the fast-track rulemaking process pursuant to Virginia Code Section 2.2-4012(1).

Please call me at (804) 786-6004 if you have any questions regarding this memorandum.
Thank you.

cc: Kim F. Piner
Chief/Senior Assistant Attorney General