



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: **EMILY MCCLELLAN**
Regulatory Supervisor
Department of Medical Assistance Services

FROM: **JENNIFER L. GOBBLE**
Assistant Attorney General

DATE: **September 20, 2016**

SUBJECT: **Proposed Regulations - GAP Demonstration Waiver for
Individuals with Serious Mental Illness**

I have reviewed the proposed regulations implementing a demonstration waiver for the Governor's Access Plan ("GAP") for individuals with serious mental illness.

The GAP demonstration waiver was implemented through emergency regulations that became effective January 1, 2015. The proposed regulations will allow the GAP program to continue past the expiration of the current emergency regulations. The proposed regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to comply with the directives set forth in the 2016 *Acts of Assembly*, Chapter 780, Item 306.XXX(1)(a) and (b).

Based on my review, it is this Office's view that the Director of the Department of Medical Assistance Services, 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 and has not exceeded that authority.

If you have any questions or need any additional information, please feel free to contact me at 786-4905.

cc: Kim F. Piner
Senior Assistant Attorney General