



Virginia  
Regulatory  
Town Hall

## Emergency Regulation Agency Background Document

<b>Agency Name:</b>	Dept. of Medical Assistance Services; 12 VAC 30
<b>VAC Chapter Number:</b>	141
<b>Regulation Title:</b>	Family Access to Medical Insurance Security Plan (FAMIS)
<b>Action Title:</b>	Duration of Eligibility
<b>Date:</b>	NEED GOVERNOR APPROVAL BY: 8/21/2001

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

### Emergency Preamble

*Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).*

*Please include a brief summary of the emergency action. There is no need to state each provision or amendment.*

The Code § 9-6.14:4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. To enable the Director of the Department of Medical Assistance Services (DMAS), in lieu of the Board of Medical Assistance Services, to comply with the 2000 Acts of Assembly Chapters 824 and 848, he must take this adoption action. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because Virginia statutory law requires this promulgation action as an emergency. As such, this regulation may be adopted without public comment with the prior approval of the Governor.

In addition, the *Code of Virginia* § 9-6.14:4.1(C)(5) permits that "during the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation." Therefore, because the emergency regulation creating VAC chapter 141 has been filed with the Virginia Register and is effective as of August 1, 2001, DMAS is submitting a modification to the emergency regulation, section 12 VAC 30-141-90A.

The 2000 Acts of Assembly, Chapters 824 and 848 cl. 5 provides: "that a seamless transition between the Children's Medical Security Insurance Plan and the implementation of the Family Access to Medical Insurance Security Plan shall be deemed to be a public emergency situation pursuant to § 9-6.14:4.1; therefore, to meet this emergency situation, the Board shall promulgate emergency regulations to implement this act." Therefore, this emergency regulation is necessary in accordance with Code of Virginia § 32.1-351.

Since this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department is also requesting approval to initiate the Administrative Process Act Article 2 procedures with the submission of the Notice of Intended Regulatory Action to the Registrar.

This emergency regulation modification to the current FAMIS emergency regulations provides for the initiation of children's eligibility from the first of the month of application rather than the first of the month following application.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.*

*Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*

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This emergency regulation modifies the eligibility guidelines for the Family Access to Medical Insurance Security Plan established by Code of Virginia § 32.1-351. This change is necessary to conform the current FAMIS program with the 2000 Acts of Assembly, Chapters 824 and 848 cl. 5

This addition provides for a more seamless transition, by preventing gaps in eligibility, for children from the Children's Medical Security Insurance Plan to Family Access to Medical Insurance Security Plan in accordance with Code of Virginia § 32.1-351.

## Substance

*Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

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By changing this provision (12 VAC 30-141-90 A) in the current emergency regulations, gaps in coverage will be prevented by permitting FAMIS eligibility to be effective the first day of the month in which an application is received by the FAMIS central processing unit. This change allows coverage from the first day of the application month unlike the earlier emergency regulation that delayed FAMIS eligibility until the first day of the month following the month in which a child was determined eligible.

## Alternatives

*Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.*

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The various programmatic alternatives for this child health plan were considered during the legislative session and are a matter of that public record.

### Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) 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; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

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This regulatory action will strengthen the institution of the family by providing comprehensive health care insurance, at nominal fees, to individuals who are uninsured. It will encourage wellness and well-being for families in the Commonwealth who currently do not have health care benefits. In addition, it makes the benefits received by current participants in Virginia's Children's Medical Security Insurance Plan more comprehensive.

This regulatory action will not have any negative affects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, nor the assumption of family responsibilities.