



## Final Regulation Agency Background Document

<b>Agency name</b>	Department of Medical Assistance Services
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 30-80-190
<b>Regulation title</b>	Methods and Standards for Establishing Payment Rates— Other Types of Care
<b>Action title</b>	Physician Fee Increases
<b>Document preparation date</b>	

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apr.htm](http://www.townhall.state.va.us/dpbpages/dpb_apr.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style, and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The Items 326 VVV, WWW, and XXX Chapter 951 of the 2005 Acts of Assembly directed various physician rate increases for an effective date of May 1, 2006. The Agency promulgated emergency regulations to satisfy those mandates. This final regulation follows the previous emergency regulation package and makes the emergency changes final and permanent.

Please note: 12 VAC 30-80-190 was also the subject of a separate, final exempt regulatory action that concerned increases to certain emergency room services. Changes to the structure of 12 VAC 30-80-190 that were made in the previous final exempt action are harmonized in this current final regulation as permanent changes.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

I hereby approve the foregoing Agency Background Document with the attached amended regulation, regarding Methods and Standards for Establishing Payment Rates- Other Types of Care, Physician Fee Increases ( 12 VAC 30-80-190) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act and is full, true, and correctly dated.

\_\_\_\_\_

Date

\_\_\_\_\_

Patrick W. Finnerty, Director

Dept. of Medical Assistance Services

**Legal basis**

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

This regulatory action is intended to implement the mandated physician rate increases included in the 2005 Acts of Assembly, chapter 951. Items 326 VVV, WWW, and XXX directed various physician rate increases for an effective date of May 1, 2006. Specifically, the Act mandated a 2.5% increase for Obstetrical and Gynecological Services, a 5% increase for Pediatric Services and a 5% increase for Adult Primary and Preventive Care Services. In order to implement these rate increases, 12 VAC 30-80-190 needs to be amended. This section of the Administrative Code defines the methodology for physician fee schedule rate setting under the Resource Based Relative Value Scale (RBRVS) system.

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

The section of the State Plan for Medical Assistance amended by this action is Methods and Standards for Establishing Payment Rates--Other Types of Care (12VAC 30-80-190). Item 326 VVV of the 2005 Acts of Assembly mandated a 2.5% reimbursement increase to Obstetrical and Gynecological (OB/GYN) professional services. These same services had been increased via an Emergency Regulation based on the Governor's declaration that a threat to public health existed regarding access to OB/GYN care. In response to that public health threat, the Governor directed that rates for OBGYN physician services be increased by 34% effective September 1, 2004. Since the 34% increase directed by the Governor has already been implemented, 12 VAC 30-80-190 is being amended to implement the additional 2.5% increase with an effective date of May 1, 2006.

Item 326 WWW of the 2005 Acts of Assembly mandated a 5% reimbursement increase to pediatric physician services. The Item further directed the Department to consult with pediatric provider representatives to determine the procedures most appropriate for inclusion in this rate increase. DMAS consulted with providers and determined that the Evaluation and Management (E&M) procedure codes delivered to recipients under age 21 represent the most appropriate codes for the pediatric increase. 12 VAC 30-80-190 is being amended to implement the 5% increase with an effective date of May 1, 2006.

Item 326 XXX of the 2005 Acts of Assembly mandated a 5% reimbursement increase for adult preventive and primary care physician services. The Item further directed the Department to consult with primary care provider representatives to determine the procedures most appropriate for inclusion in this rate increase. DMAS consulted with providers and determined that the E&M procedure codes delivered to recipients age 21 and over represent the most appropriate codes for the adult preventive and primary care increase. 12 VAC 30-80-190 is being amended to implement the 5% with an effective date of May 1, 2006.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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The primary advantage to the Commonwealth is that increases in reimbursement generally will sustain or may enhance access to medical services. The primary disadvantage to the Commonwealth is an increased expenditure of funds for medical services without any directly related and measurable increase in access to care.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.*

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There were no substantive changes made in this final regulation over the proposed stage for public comment.

**Public comment**

*Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.*

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DMAS' proposed regulations were published in the December 11, 2006, *Virginia Register* (VR 23:7 pp1069) for their public comment period from December 11, 2006 through February 9, 2007. No comments were received.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

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	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12VAC30-80-190	N/A	Defines the RBRVS rate setting methodology for professional fees	The language is modified to increase relevant fees for specific groups of services by amounts specified in the 2005 Appropriations Act and to modify the RBRVS methodology to perpetuate these rate increases in future calculations.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or 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. It does not strengthen or erode the marital commitment and is not expected to affect disposable family income.