



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory Supervisor
Department of Medical Assistance Services

FROM: JENNIFER L. GOBBLE
Special Counsel to DMAS

DATE: January 14, 2010

**SUBJECT: Final Exempt Regulation – Hospital, Home Health and Nursing Facilities
Reimbursement Changes**

I have reviewed the attached final exempt regulations that will implement certain reimbursement changes set out in Chapter 781, Item 306 of the 2009 Appropriation Act. You have asked the Office of the Attorney General to review and determine if DMAS has the legal authority to promulgate the final exempt regulations and if they comport with state and federal law.

Based on that review, it is this Office's view that that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Va. Code §32.1-324, has the authority to promulgate the attached regulations, subject to compliance with the requirements of Article 2 of the Administrative Process Act and has not exceeded that authority.

These regulations were developed as required by Chapter 781 of the 2009 Acts of Assembly. It is my view that the promulgation of these regulations is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Virginia Code § 2.2-4006(A)(4)(a).

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

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

Attachment