



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Dept. of Medical Assistance Services (DMAS)
<b>VAC Chapter Number:</b>	12 VAC 30 Chapter 120
<b>Regulation Title:</b>	Elderly and Disabled Waiver Program
<b>Action Title:</b>	Elderly and Disabled Waiver Program
<b>Date:</b>	May 28, 2002: Need Governor's approval by 7/29/2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The current regulations for the Elderly and Disabled (E&D) Waiver program describe the criteria that must be met in order for providers to be reimbursed for the services rendered. The current services offered in this waiver include personal care, respite care, and adult day health care. The emergency regulations added the personal emergency response systems (PERS) to the waiver.

The changes to the regulations include the following: (1) addition of PERS as a permanent covered service; (2) addition of language regarding waiver desk reviews, which the Centers for Medicare and Medicaid Services (CMS) requires DMAS to perform; (3) addition of language referencing the *Code of Virginia* regarding criminal records checks for all compensated employees of personal care, respite care and adult day health care agencies; (4) addition of language that states that personal care recipients may continue to work and attend post-secondary school while receiving services under this waiver; (5) change in the requirement of supervisory

visits from every 30 days in general to every 30 days for recipients with a cognitive impairment, and up to every 90 days for recipients who do not have a cognitive impairment; (6) addition of some ‘family members’ to the definition of who is qualified to perform personal care services; (7) addition of the required qualifications for LPNs for respite care; and (8) clarifications and corrections to the existing language.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

The Code of Virginia § 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia §32.1-324 grants to the Director of DMAS the authority to administer and amend the Plan of Medical Assistance in lieu of Board action pursuant to the Board’s requirements. The Code of Virginia also provides, in the Administrative Process Act (APA) §§ 2.2-4007 and 2.2-4012, for this agency’s promulgation of proposed regulations subject to the Governor’s review.

Subsequent to an emergency adoption action, the agency is initiating the public notice and comment process as contained in the Article 2 of the APA. The emergency regulation became effective on February 1, 2002. The Code, at § 2.2-4007 requires the agency to file the Notice of Intended Regulatory Action within 60 days of the effective date of the emergency regulation if it intends to promulgate a permanent replacement regulation. The Notice of Intended Regulatory Action for this regulation was filed with the Virginia Register on 1/31/02.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

The E&D Waiver provides individuals with personal care, respite care, and adult day health care services. The addition of the personal emergency response systems (PERS) allows individuals who are at high risk of institutionalization to remain in their homes with less direct human supervision. PERS are electronic devices that enable community recipients to secure help in an emergency. PERS services are limited to those recipients who live alone or are alone for significant parts of the day with no regular caregiver for extended periods of time and who would otherwise require extensive routine supervision by personal care aides.

This regulatory action is expected to help protect the health, safety, and welfare of participants in this waiver. These regulations will provide a service which enable recipients to live successfully in their homes and communities.

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

The regulations affected by this action are the Elderly and Disabled Waiver regulations (12 VAC 30-120-10 through 12 VAC 30-120-60).

In March 2001, DMAS convened a workgroup to assist with the development of the waiver renewal application to CMS, the E&D Waiver Manual and the corresponding regulations. The workgroup is of comprised staff from DMAS, other state agencies, provider agencies, provider associations, and consumers. In order to make the changes to the waiver program that the workgroup and DMAS agreed upon and to permanently add the new PERS services to the waiver, new permanent regulations are required. Without these regulations, DMAS lacks the regulatory authority to require the provider to adhere to the agreed upon changes.

Of those recipients receiving personal care services, approximately 10% require the services due to the need for supervision. Supervision is a covered service within the plan of care when it's purpose is to supervise or monitor those recipients who require the physical presence of an aide to ensure their safety during times when no other support system is available. The inclusion of supervision in the plan of care is appropriate only when the recipient cannot be left alone at any time due to mental or severe physical incapacitation.

For those recipients who are physically frail and impaired, PERS could greatly improve their autonomy and ability to remain in the community without requiring an aide's presence. Without the PERS service, recipients used personal care services to meet their supervision needs. If recipients who require supervision services use PERS instead of personal care services, more aides would be available to provide direct services to recipients who require personal care services, thus, delaying or preventing institutionalization of those other recipients who require personal care services.

During the emergency regulatory review process, the Department of Planning and Budget (DPB) suggested two changes to DMAS when working on the proposed regulations. The first suggestion concerned the definition of the PERS. In the definition of PERS, the circumstances in which PERS is an appropriate service was also included. DPB suggested that the circumstances be moved out of the definition of the PERS service. DMAS changed this in the proposed regulations.

DPB's second suggestion concerned the following statement: "If the recipient's caregiver has a business in the home, such as a day care center, PERS will only be approved if the recipient is evaluated as being dependent in orientation and behavior pattern." DPB suggested that DMAS

define the terms “dependent”, “orientation”, and “behavior pattern.” DMAS clarified this requirement in the proposed regulations.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term “issues” means: 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 there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

The primary advantage for the Commonwealth’s citizens regarding the addition of PERS as a new covered service in the Elderly and Disabled Waiver is that it could greatly improve a recipient’s autonomy and ability to remain in the community without requiring an aide’s presence. It could enable some recipients to live on their own and enable some recipients to remain with their families, instead of being institutionalized. To the extent of their abilities, recipients will be able to function in their communities, attending school and continuing employment. Another advantage is that, since recipients who use personal care services for their supervision needs can use the PERS service, the aides that do not have to provide the supervision service could provide the direct personal care services to recipients who would otherwise be institutionalized.

Changing the requirement of supervisory visits from every 30 days in general to every 90 days for non-cognitively impaired individuals will allow recipients more freedom and privacy in their homes. This change would not affect those recipients with a cognitive impairment as the requirement for the supervisory visit remains at every 30 days. DMAS also included a safeguard in these regulations which states that if a recipient’s personal care aide is supervised by the provider’s registered nurse less often than every 30 days and DMAS determines that the recipient’s health, safety and/or welfare is in jeopardy, DMAS or the designated preauthorization contractor, may require the provider’s registered nurse to supervise the personal care aide every 30 days or more frequently.

All of the proposed changes to the regulations are intended to protect the recipient from abuse, to prevent the recipient from receiving services from unqualified staff, and to promote the recipient’s independence in the community.

There are no disadvantages to the public or the Commonwealth with these regulation changes.

## Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency’s*

*best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

The total E&D Waiver expenditures for personal care services for fiscal year 2001 were \$84,039,347 for 9,316 recipients. PERS services were added to this waiver as a cost savings measure.

The Nursing Home Preadmission Screening (NHPAS) Teams will screen recipients to determine if they are eligible to receive services under the E&D Waiver. NHPAS Teams also authorize services to begin. The existing NHPAS Teams, who already screen recipients for E&D Waiver services, will screen recipients who wish to receive the PERS service if they are new to the waiver.

WVMI, the DMAS preauthorization contractor, will perform preauthorization for the PERS service. WVMI already has staff who perform preauthorization for the E&D Waiver. DMAS staff will perform utilization review on the new service. DMAS also already has staff who perform utilization review. There will not be any increase in the cost to the Commonwealth to add this service.

There is no projected cost of the regulation on localities.

Individuals who are elderly and/or disabled and qualify for these services will continue to avoid institutionalization as in the past under this waiver.

Businesses likely to be affected by the proposed regulations include personal care agencies since the agencies will provide fewer personal care aides to provide supervision services. It is anticipated that the shortage of personal care aides will lessen since some recipients who currently receive supervision services can now receive the PERS service in lieu of the supervision services. The personal care agency will also be affected since the nursing supervisor, who makes supervisory visits, will make fewer supervisory visits. Although fewer supervisory visits will be made, this will not affect the personal care agency's income, as payment for supervisory visits is included in the hourly rate for the service.

## Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

The proposed regulations add a section to the Elderly and Disabled Waiver section of the Virginia Administrative Code for the PERS service (12VAC30-120-10 through 12VAC30-120-60).

12VAC30-120-10

- The definition of “designated preauthorization contractor” was added in order to define the term that was added throughout the regulations.
- The definition of “medication monitoring” was added to define this component of the PERS service.
- Definitions related to the PERS service were added.
- The definition of “Plan of Care” was changed to specify that the plan of care is developed by the provider related solely to the specific services required by the recipient.
- The definition of “Service Plan” was added to specify the plan that is developed and certified by the screening teams.
- The definition of “respite care” was changed to add the word “unpaid” when discussing the primary caregiver as the recipient of the respite services.

#### 12VAC30-120-20

Language was added to clarify the preauthorization requirements that providers must follow in order to receive reimbursement from Medicaid. (subsection C 2)

Language was added to clarify that Medicaid will not pay for any services delivered prior to the authorization date approved by the screening team and the physician signature on the Medicaid Funded Long-Term Care Service Authorization Form (DMAS-96). The DMAS-96 form is attached. Language was also added to clarify that if services have not begun within 6 months of the screening, a new screening must be completed or an update to the original screening must be completed prior to the beginning of services. (subsections C 7)

#### 12VAC30-120-30

Language was added to clarify that the recipient has the choice of providers if there is more than one provider who provides services in the community and that the recipients will have the option of selecting the provider of his choice from among those providers which can appropriately meet the recipient’s needs. (subsection E)

Language was corrected in the section regarding termination of provider participation. The old language specified that DMAS may terminate a provider from participation upon 60 days’ written notification. This was changed to 30 days per the regulations for other programs to be consistent. (subsection F)

Language was corrected in the section regarding the time that the provider has to submit language for reconsideration, informal conference, and formal evidentiary hearing. The old language specified that the provider had 15 days to submit this information. In these proposed regulations, this language was corrected to specify 30 days, as per the appeals regulations. (subsection G 2)

Language was added for clarity regarding decreases in amount of authorized care by the provider. The new language specifies that the provider may decrease the amount of authorized care if the amount of care in the revised plan of care is appropriate based on the needs of the recipient. Language is also included that specifies what the recipient may do if he disagrees with this decrease. (subsection I 1 a)

Language currently states that the provider must discuss with the recipient or family or both the decrease in care and that the provider must notify the recipient or family of the change by letter. The new language states that this letter must give the right to reconsideration. (subsection I, 1, c)

New language was added which states that a provider's noncompliance with DMAS policies and procedures, as required in the provider's contract, may result in a retraction of Medicaid payment or termination of the provider agreement. (subsection K)

Language was added regarding waiver desk reviews. DMAS added this language per CMS' requirement that DMAS perform this function.

#### 12VAC30-120-40

The current language states that the adult day health care (ADHC) center must provide a separate room or area equipped with one bed or cot for every six Medicaid participants. Language was added to allow recliners to count in this ratio and the ratio was changed to one for every twelve participants. (subsection B 3)

Language was added to be consistent with the DSS regulations for ADHCs regarding the use of volunteers. (subsection B 4, d)

Language was clarified regarding the amount of time that a registered nurse must be present in the ADHC each month. The old language specified that the registered nurse must be present a minimum of one day each month at the ADHC. The new language specifies that the registered nurse must be present a minimum of eight hours each month at the ADHC. Language was deleted that stated that the registered nurse renders direct services to Medicaid adult day health care participants. (subsection B 4, g)

New language was added under the qualifications of the ADHC program aide to include the ability to read and write in English to the degree necessary to perform the tasks expected.

Language was also added that the provider must comply with the *Code of Virginia* §32.1-162.9:1 regarding criminal record checks. (subsection C 1, c)

Language was added to the registered nurse section that states that the registered nurse must have two years of related clinical experience. The setting of the public health clinic and the home health agency has been added. Language was also added that states that the provider must comply with the *Code of Virginia* §32.1-162.9:1 regarding criminal record checks. (subsections C 2 b and c)

Language for the criminal records check was added to the activities director section and the director's section. (subsections C 3, c and C 4)

Language regarding the transportation responsibilities was deleted from the regulations. (subsection D 4).

Language was added and deleted from the daily record section. The language deleted stated that the record must be signed weekly by the participant or representative. The language added includes the requirement that a copy of this record must be given to the participant or representative weekly. (subsection E 6)

#### 12VAC30-120-50

Language was added to clarify that the recipient may continue to work or attend post-secondary school while they receive services under this waiver. Language was added that describes the requirements that must be met. (subsection A)

Language was added to the section on the registered nurse who must have two years of related clinical experience, which may include work in a rehabilitation hospital or as an LPN. Language was also added that states that the providers must comply with the *Code of Virginia §32.1-162.9:1* regarding criminal record checks. (subsections B 2, a and B 2, b)

Language was added (per the request of the workgroup) that states that the RN supervisor must make supervisory visits as often as needed to ensure both quality and appropriateness of services. The minimum frequency of these visits is every 30 days for recipients with a cognitive impairment and every 90 days for recipients who do not have a cognitive impairment. Language was added to include the definition of cognitive impairment, the requirements for the initial and follow-up visits and a statement that the recipient (if he does not have a cognitive impairment) has the choice of frequency of the supervisory visits (not to exceed 90 days). Language was also added to include a safeguard that if DMAS or the designated preauthorization contractor determines that the health, safety and/or welfare of a recipient is in jeopardy, DMAS, or the designated preauthorization contractor, may require the provider's registered nurse to supervise the personal care aide every 30 days or more frequently. (subsection B 2, d)

Language was deleted that stated "Any change in the identity of the RN providing coverage shall be reported immediately to DMAS."

Language was added under the qualifications of the personal care aide to include the ability to read and write in English to the degree necessary to perform the tasks expected. Language was also added that states that providers must comply with the *Code of Virginia §32.1-162.9:1* regarding criminal record checks. (subsections B 3, a and B 3, d)

Language was added, also under the qualifications of the personal care aide, to include the requirement that the aide cannot be the parents of minor children, the recipients' spouses, or the legal guardian of the recipient. Payment may be made for services furnished by other family members when there is objective written documentation as to why there are no other providers available to provide the care. These family members must meet the same requirements as aides who are not family members. (subsection B 3, e)

Language was deleted that described the procedure that the provider must follow when using substitute personal care aides. This information will now be located in the provider manual.

#### 12VAC30-120-55. Personal Emergency Response System (PERS) services

This is a new section in the VAC created for the language for the PERS service. The language included in this section includes a description of the service, DMAS criteria for the service, service units and service limitations, provider requirements, and standards for the PERS equipment. Information regarding medication monitoring was added as a component of the PERS service.

#### 12VAC30-120-60

Language was added about respite care and that it is distinguished from other services in the continuum of long-term care because it is specifically designed to focus on the need of the unpaid caregiver for temporary relief. Language was also added that the authorization of respite care is limited to 720 hours per calendar year. This was for clarification purposes since the old language limited respite to 30-24 hour days over a 12-month period. (subsection A)

Language was added to the section on the registered nurse. The registered nurse must have two years of related clinical experience, which may include work in a rehabilitation hospital or as an LPN.

Language was also added that states that the same providers must comply with the *Code of Virginia §32.1-162.9:1* regarding criminal record checks. (subsection B 2 a)

Language was added under the qualifications of the personal care aide to include the ability to read and write in English to the degree necessary to perform the tasks expected.

Language was also added that states that the providers must comply with the *Code of Virginia §32.1-162.9:1* regarding criminal record checks. (subsections B 3 a and B 3 e)

Language was added, also under the qualifications of the personal care aide, to include the requirement that the aide cannot be the parents of minor children receiving services paid for by Medicaid, the recipients' spouses, or legal guardian of the recipient. Payment may be made for services furnished by other family members when there is objective written documentation as to why there are no other providers available to provide the care. These family members must meet the same requirements as aides who are not family members. (subsection B 3 f)

Language was added regarding the Licensed Practical Nurse. Language included that the LPN must be currently licensed to practice in the Commonwealth. Language was also added that states that the providers must comply with the *Code of Virginia §32.1-162.9:1* regarding criminal record checks. (subsection B 4, a)

Language was deleted that described the procedure that the respite care agency must follow when using substitute respite care aides. This information will now be located in the provider manual.

Language was added that states that respite care services cannot begin prior to preauthorization from the designated preauthorization contractor. (subsection E)

### Alternatives

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

There are no other technological alternatives that DMAS has considered, in response to the shortage of personal care aides in the Commonwealth, as this addition of PERS enable recipients to remain in their homes instead of being institutionalized.

These proposed regulations are required in order for the agency to have the authority it requires to carry out the policies outlined in the regulations. The various policy options contained in these regulations were arrived at in discussions with the Elderly and Disabled Waiver workgroup.

### Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

The E&D Waiver workgroup has been reviewing and advising DMAS in formal workgroup meetings as well as individually by telephone and electronic mail. Their comments and recommendations are shown in the following table:

Family Care called with these comments.

Page #	Current Language	Comment	Action
17	C.1.c. “The provider shall not hire any person who has been convicted of barrier crimes...”	Change the word “hire” to “employ”. Per provider, they hire the employee, they send out the criminal record check the day the employee starts work and within 30 days they get it back. If the criminal record check shows employee was convicted of barrier crime, they fire the employee.	Language was re-worded
18	2.c. “The provider shall not hire any person who has been convicted of barrier crimes...”	Change the word “hire” to “employ”. See above comment.	Language was re-worded
18	3.c. “The provider shall not hire any person who has been convicted of barrier crimes...”	Change the word “hire” to “employ”. See above comment.	Language was re-worded
18	4. “The provider shall not hire any person who has been convicted of barrier crimes...”	Change the word “hire” to “employ”. See above comment.	Language was re-worded
22	B.2.c. “The RN supervisor shall make an initial assessment home visit prior to the start of care...”	Change the word “prior” to “on or before”. Per provider, this was discussed in the workgroup meetings. They don’t always know until the day that care begins that care will begin. Would like RN to be able to make visit on first day of care.	Made change
23	(4) “Recipient’s satisfaction with the service”	Per provider this is not on the DMAS-99. Told provider that this was inadvertently left off the DMAS-99 and will be added to the form.	Will update the DMAS-99 form
24	3.d. “The provider shall not hire any person who has been convicted of barrier crimes...”	Change the word “hire” to “employ”. Per provider, they hire the employee, they send out the criminal record check the day the aide starts work and within 30 days they get it back. If the criminal record check shows employee was convicted of barrier crime, they fire the employee.	Language was re-worded
31	B.2.a. “The provider shall not hire any person who has been convicted of barrier crimes...”	Change the word “hire” to “employ”. Per provider, they hire the employee, they send out the criminal record check the day the aide starts work and within 30 days they get it back. If the criminal record check shows employee was convicted of barrier crime, they fire the employee.	Language was re-worded

33	3.e. “The provider shall not hire any person who has been convicted of barrier crimes...”	Change the word “hire” to “employ”. Per provider, they hire the employee, they send out the criminal record check the day the aide starts work and within 30 days they get it back. If the criminal record check shows employee was convicted of barrier crime, they fire the employee.	Language was re-worded
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Department of Rehabilitative Services provided these comments.

Page #	Current Language	Comment	Action
3	“‘Plan of Care’ means the plan of care developed by the specific service provider related solely to the specific tasks required of that service provider.”	This wording sounds as though the plan of care serves the provider rather than the individual requiring the services. The plan of care relates to the services needed by the consumer.	Changed the definition
3	“means the written plan of services certified by the screening team physician as needed by the individual to ensure optimal health and safety for the delivery of home and community-based care.”	Where does this text belong? Should it follow the “Plan of Care” as the definition with clarification that it is developed by the provider? This section was difficult to understand.	Made correction

Alzheimer’s Association provided these comments.

Page #	Current Language	Comment	Action
N/A	N/A	Didn’t the workgroup intend to include enrollment in the Safe Return Program as an option under the PERS section?	This will require an additional appropriation.

DSS provided these comments.

Page #	Current Language	Comment	Action
2 & 3	N/A	“PERS” is not spelled out until the definition of it, but is referred to in two definitions prior to the PERS definition.	Will correct this.
3	N/A	Under the definition of POC, the 2 <sup>nd</sup> paragraph starts with “means” without a term to be defined.	Will correct this.

3	N/A	Under respite care definition, “but periodic or routine” is deleted, then added back in.	“but periodic or routine” will remain in the regs.
17	“Acceptable curriculum are offered...” (C, 1, d)	Change to “Acceptable curriculum is”	Will not make change
17	“evidence of possible abuse” (C, 1, c)	Change to “evidence of abuse”	Made change
18	“evidence of possible abuse” (C, 2, c)	Change to “evidence of abuse”	Made change
18	“evidence of possible abuse” (C, 3, c)	Change to “evidence of abuse”	Made change
19	N/A	Since the text of #4 is being deleted, need to renumber 5-7 as 4-6	Will correct this
22	“evidence of possible abuse” (B, 2, b)	Change to “evidence of abuse”	Made change
23	N/A	Use RN where registered nurse is spelled out to be consistent	Made changes
24	“evidence of possible abuse” (B, 3, d)	Change to “evidence of abuse”	Made change
27	“If the recipient’s caregiver has a business in the home, such as a day care center, PERS will only be approved if the recipient is evaluated as being dependent in orientation and behavior pattern on the UAL.”	Does dependency in behavior pattern and orientation mean dependency in each or do you mean the combination variable ‘behavior pattern and orientation’?	Clarified in the regs
31	“evidence of possible abuse” (B, 2, a)	Change to “evidence of abuse”	Made change
31	N/A	The little “a” is stricken through, but needs to be there.	Will add back in.
33	“evidence of possible abuse” (B, 3, e)	Change to “evidence of abuse”	Made change
34	“evidence of possible abuse” (B, 4, a)	Change to “evidence of abuse”	Made change

Additional recommendations may be incorporated into the proposed regulations during the final comment period.

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

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DMAS has examined these regulations and, in so far as is possible, has ensured that they are clearly written and easily understandable by the individuals and entities affected.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

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Due to the periodic waiver review necessitated by federal requirements, DMAS, CMS, and the affected industry will be conducting regular reviews of the impact of these regulations.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory 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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DMAS anticipates that the proposed regulations will have a positive impact on the institution of the family and family stability. The proposed regulations may assist families and individuals with strong family ties to stay together instead of a family member being institutionalized.

These regulations will not increase nor decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities.