



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: **VICKI SIMMONS**
Regulatory Coordinator
Department of Medical Assistance Services

FROM: **USHA KODURU**
Assistant Attorney General

DATE: **November 19, 2004**

SUBJECT: Final Exempt Regulation Concerning Durable Medical Equipment Regional Carrier Reimbursement for Durable Medical Equipment

I have reviewed the attached final exempt regulation to set the rate for durable medical equipment at the Durable Medical Equipment Regional Carrier (DMERC) reimbursement level.

The authority for this proposed regulation derives from Virginia Code §§ 32.1-324 which grants to the Director, acting on behalf of the Board of Medical Assistance Services, the authority to administer and amend the State Plan for Medical Assistance without complying with the requirements of Article 2 of the Administrative Process Act and has not exceeded that authority.

The amendment to the regulation sets the rate for durable medical equipment at the Durable Medical Regional Carrier reimbursement level for those items that have a national Healthcare Common Procedure Coding System code pursuant to Item 326(BBB) of the 2004 Appropriations Act. This change is due to requirements of the Federal Health Insurance Portability and Accountability Act which require using the Healthcare Common Procedure Coding System (HCPCS) instead of the Common Procedure Terminology (CPT) coding system. Continued use of the CPT codes would have prevented the claims processing computer system (MMIS) used by DMAS from being certified by the federal government. Federal certification is

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required to receive Federal Financial Participation for all covered services and for administrative costs. The amended reimbursement method will comply with the Medicare system. Based on the foregoing, the promulgation of these amendments 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 contact me at 225-2741.

cc: Kim F. Piner, Esquire

Attachment