

PRELIMINARY JUSTIFICATION FOR REGULATORY ACTION
UNDER EXECUTIVE ORDER THIRTEEN (94)

I. IDENTIFICATION INFORMATION

Regulation Name: Methods and Standards for Establishing Payment Rates-Other Types of Care

Issue Name: Repeal Supplement 1 to Attachment 4.19-B, Pediatric/Obstetric Fees

VR Numbers: 460-03-4.1920 (12 VAC 30-80-160)

Registrar's Filing Deadline: _____

II. LEGAL AUTHORITY

Agency Legal Authority: Code of Virginia §§32.1-324 and 32.1-325; 42 U.S.C. §1396.

Director Approval of Action: /s/ Joseph M. Teefey 11/20/97
Joseph M. Teefey Date

III. JUSTIFICATION

1. Statement of Reason for Regulation

The Omnibus Budget Reconciliation Act (OBRA) of 1989 §6402 added section 1926 to the *Social Security Act*. This new section required the states to incorporate into their Medicaid State Plans the fees that they paid for certain obstetric and pediatric medical procedures. By April 1st, these fees had to be submitted annually to the Health Care Financing Administration (HCFA). Additionally, the states were required to submit physician enrollment and Medicaid participation data in support of the adequacy of their fee levels. These fees were required to be effective on July 1st of each year.

DMAS has annually complied with all of the requirements of §1926 of the *Social Security Act* and secured HCFA's approval.

The Balanced Budget Act of 1997 (Public Law 105-33) §4713 repealed §1926 of the *Social Security Act*. Since DMAS no longer has a federal mandate to maintain these specific obstetric and pediatric fees in the State Plan, it is repealing this section.

Additionally, this repealing action is consistent with the administration's intent, as discussed in Executive Order Fifteen (94), to repeal inappropriate, unnecessary regulations which lack a basis in federal or state law.

2. Federal/State Mandate and Scope

The legal authority of the Agency to administer the Medicaid Program is as stated above (II.). The need for this regulation to be included in the State Plan for Medical Assistance no longer exists. Therefore, DMAS is repealing the regulation.

3. Essential Nature of Regulation

This regulation is no longer required by federal law, therefore it is being repealed. DMAS does not routinely promulgate its fees in the State Plan or other regulations. This particular regulation became the exception to that policy in 1989 when Congress approved §6402 of OBRA 1989. DMAS' fee schedules are available upon request. Appropriate notices will be given in the event of changes.

4. Agency Consideration of Alternatives

The only alternative to repealing this regulation which is available to the agency is to retain this Supplement in the Plan and keep it updated. Since this activity is no longer supported by federal law, DMAS lacks the authority to do so. However, the Agency will consider any alternatives identified through the public comment process.

5. Family Impact Assessment (Code of Virginia §2.1-7.2)

This regulatory action will have no impact on either providers or eligibles and their families.