



## Final Regulation Agency Background Document

<b>Agency name</b>	Department of Medical Assistance Services
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 30-120-360, 370, and 380
<b>Regulation title</b>	Waivered Services
<b>Action title</b>	MCO Rural Exception Option
<b>Date this document prepared</b>	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

This action conforms the *Virginia Administrative Code* to changes that have been approved by the Centers for Medicare and Medicaid Services (CMS) to the Virginia Medicaid managed care waiver program entitled Medallion II. The approved changes concern the addition of the rural exception to the Medallion II program in areas federally designated as 'rural' where there is only one contracted MCO. The approved changes also provide for several organizational improvements and the updating of internal citations.

### 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 or board taking the action, and (3) the title of the regulation.*

Effective 10/1/09, the Department took action to implement the rural exception option in federally designated rural areas with only one MCO option, which, at that time, was the county of Culpeper. This action was taken pursuant to an amendment to the Virginia Medicaid Managed Care 1915(b) Waiver approved by the Centers for Medicare and Medicaid Services (CMS).

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.*

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 and 325, 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. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

This regulatory action is not essential to protect the health, safety, and welfare of the citizens of the Commonwealth. However, it does protect Medicaid recipients in rural areas of the Commonwealth where only one managed care program operates. In such situations, all Medicaid recipients, who otherwise do not meet any of the managed care exemption reasons, are required to participate with the operating managed care program for their locality. Implementation of the rural exception option allows Virginia to adhere to the mandatory managed care requirements as set forth in the 1915(b) Managed Care Waiver.

**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 state regulations that are affected by this action are Medallion II (12 VAC 30-120).

Currently, the Medallion II regulations do not provide for a rural exception. Until recently, managed care programs operated throughout the state under one of three different models: with the MEDALLION PCCM program (MEDALLION Primary Care Case Management) as the sole program, as in the far southwest; with one Medallion II MCO option and a MEDALLION PCCM program, as in Roanoke and the surrounding areas; and with the Medallion II program with 2 or more contracted MCOs, as in all other localities. Newly assigned recipients residing in Medallion II areas are afforded a 90-day period of time in which to re-consider the MCO/plan to which they have been assigned. If they elect to switch to the alternative MCO/plan during this 90-day period, they are permitted to do so with no penalty. After the end of the 90-day period, however, they are locked in to receiving care from that MCO until the next open enrollment period.

Revisions to 12 VAC 30-120-360, 12 VAC 30-120-370, and 12 VAC 30-120-380 are being made to bring the *Virginia Administrative Code* in accordance with the CMS-approved 1915(b) Managed Care Waiver. It is under this waiver that the Medallion II (MCO) program operates. The waiver is renewed every two years with amendments requested, as needed. The proposed regulation changes in this document are specific to the Medallion II (MCO) program.

The amendment to include the “rural” exception option (also referred to as the “rural option”) to DMAS’ 1915(b) waiver application (section A.1.C.3) was submitted to CMS on 8/13/09, and subsequently approved, with an effective date of 10/1/09. The need for this amendment to the waiver, pursuant to 42 CFR 438.52 (b), resulted from Virginia Premier Health Plan exiting from Culpeper County and leaving only one remaining contracted health plan (AMERIGROUP Community Care) in the locality. The rural exception as provided for in these regulations is defined as a federally-designated area where qualifying Medallion II recipients are mandated to enroll in the one contracted managed care organization.

Section 12 VAC 30-120-360 adds a definition for the rural exception option, as well as for retractions as referenced in 12 VAC 30-120-370 (G). Other noted changes provide clarification to policies surrounding the rural exception area (e.g. pre-assignment and open enrollment) and point to the section 1915(b) Managed Care Waiver and Medallion II Contract for terminology corrections or clarification in other areas of these regulations. The name of a sister state agency has been updated from the previous title of Department of Mental Health, Mental Retardation and Substance Abuse Services to the new title of Department of Behavioral Health & Developmental Services.

Due to managed care expansions which have occurred in 2012, where there are now two or more MCO options in each locality statewide, the rural exception option is not currently required. It is, however, an important alternative should there be future changes to the managed care landscape in Virginia.

### 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 there are no disadvantages to the public or the Commonwealth, please indicate.*

There are no advantages or disadvantages to the public in this regulatory action. No disadvantages to the public have been identified in connection with this regulation. The agency projects no negative issues involved in implementing this regulatory change. The recommended regulatory changes to 12 VAC 30-120 maintains Virginia’s adherence to the mandatory managed care requirements set forth in the 1915(b) Managed Care Waiver; allows for Medicaid recipients of the Commonwealth to continue to receive comprehensive, cost effective, quality health care services; and recognizes the need for the managed care programs to keep pace with the changing needs of the state.

### 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.*

There have been no changes made to the text of the proposed regulations since the publication of the proposed stage.

**Public comment**

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

There were no comments received during the public comment period.

**All changes made in this regulatory action**

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

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale.</b>
12 VAC 30-120-360	Same	This section provides definitions for the Medallion II program.	Add definition of rural exception, a managed care option for recipients in a locality with only one contracted MCO and no other managed care program. Also added "PCP of record" as referenced in 12 VAC30-120-370D and "retractions" as referenced in 12 VAC 30-120-370G.
12 VAC 30-120-370 B	Same	Section B lists the exclusion reasons from mandatory managed care.	Add documentation to specify that the list in 12 VAC 30-120-370 B is not all inclusive and to point to the 1915(b) Managed Care Waiver for a comprehensive list.
12VAC 30-120-370 B 13	Same	Agency's previous name was Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS).	Agency Name changed to Department of Behavioral Health and Developmental Services (DBHDS)
	12VAC 30-120-370 D		Provides for enrollment in MCO rural exception areas.
12 VAC 30-120-370 F	12 VAC 30-120-370 G	Subsection F items 1-5 outline the assignment process for Medallion II recipients	(New) subsection G item 3 is being added to provide for the rural exception requirement and DMAS' needs to administratively respond to the fluctuating MCO market.  Item # 4 changed to item # 5 and is being modified to provide clarification for enrollments in one MCO and PCCM areas.  Item #5 changed to item #6 and is being modified to include changes or "retractions" as defined in 12VAC 30-120-360.

12VAC 30-120-370 H	12 VAC 30-120-370 I		Section H, changed to Section I, omits reference of open enrollment for “all” Medallion II participants, and provides clarification that recipients in area designated as “rural” exception areas do <b>not</b> have an open enrollment period.
12 VAC 30-120-370 I	12 VAC 30-120-370 J	Language already exists in 12 VAC 30-120-370 C	Omission of last paragraph due to duplication. This paragraph is found in 12 VAC 30-120-370 C.
12VAC 30-120-370 I. 6	12VAC 30-120-370 J 6	Outlines the criteria for “disenrollment for cause.” Disenrollment is specifically defined in 12 VAC 30-120-360 as the process of changing from one MCO to another MCO or to the PCCM.	Correction to the terminology in item 6. Individuals who meet one of the exclusions in subsection B shall be <b>excluded</b> (not disenrolled) as appropriate by DMAS.