



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	DEPT OF MEDICAL ASSISTANCE SERVICES
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 30-135-140
<b>Regulation title</b>	Demonstration Waiver Services
<b>Action title</b>	Eligibility Requirements for the Children's Mental Health Program Waiver
<b>Final agency action date</b>	
<b>Document preparation date</b>	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The section of the State Plan for Medical Assistance that is affected by this action is 12VAC 30-135-140. Item 297 XX of the 2010 *Acts of Assembly* mandates that the Department of Medical Assistance Services (DMAS) amend the Children's Mental Health Program Waiver to permit a child to be evaluated as a separate assistance unit of one. The Centers for Medicare and Medicaid Services (CMS) has approved the change in eligibility. This regulatory change allows children to be counted as a family of one when the child is discharged from a Psychiatric Residential Treatment Facility (PRTF). This mandate states as follows:

XX "The Department of Medical Assistance Services shall amend the Children's Mental Health demonstration grant program eligibility requirements in order to permit a child to be evaluated as a separate assistance unit of one, regardless of whether the child is living in the home with a parent or guardian, or siblings.

The department shall implement this change effective July 1, 2010 and prior to the completion of any regulatory process undertaken in order to effect such change.”

Currently, when a child is discharged from a PRTF, eligibility is based on the family's income. This may cause the child to lose Medicaid eligibility for community care and may result in the child remaining in the PRTF for a longer stay. The program only has about 25 children enrolled versus a projected 300. This change will result in more children being enrolled in the waiver and save the Commonwealth from having to pay the higher costs of a PRTF.

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, 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.

This action meets the exemption provided by the Code of Virginia 2.2-4006 (A)(4)(a) because it conforms these attached regulations to the requirements of Item 297 XX of the 2010 *Acts of Assembly* and does not materially differ. Additionally, the Agency has no discretion concerning the implementation of this mandated requirement.

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

I hereby approve the foregoing Agency Background document with the attached regulations Eligibility for the Children’s Mental Health Program Waiver (12VAC 30-135-140) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act. I hereby certify that these regulations are full, true, and correctly dated.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Cynthia B. Jones, Acting Director  
Dept. of Medical Assistance Services

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

These changes allow families to care for their children in the home with additional supports that are chosen by the family. These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or 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.