



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Kenneth T. Cuccinelli, II
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory Coordinator
Department of Medical Assistance Services

FROM: ELIZABETH A. MCDONALD *EAM*
Assistant Attorney General

DATE: May 6, 2013

SUBJECT: Exempt Final Regulations regarding coverage of lawfully residing pregnant women and children

I have reviewed the attached final exempt regulations that would provide for medical assistance coverage for lawfully residing non-citizen pregnant women and children in the Commonwealth's Medicaid and CHIP programs. You have asked the Office of the Attorney General to review the proposed regulations to determine if DMAS has the legal authority to promulgate the regulations as final exempt and if they comport with state and federal law.

Based on that review, it is this Office's view that DMAS has the authority, subject to compliance with the provisions of Article 2 of the Administrative Process Act (APA), and has not exceeded that authority.

These regulations are required by Va. Code § 32.1-325(A)(25). It is my view that the promulgation of these regulations 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 feel free to contact me at 786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General