



Exempt Action Final Regulation Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation	12 VAC 30-40-10, 12 VAC 30-141-100 and 30-141-740
Regulation title	General Conditions of Eligibility
Action title	Coverage of lawfully residing pregnant women and children
Final agency action date	May 31, 2012
Document preparation date	May 29, 2012

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, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

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 purpose of this regulatory action is to promulgate regulations to provide for medical assistance coverage for lawfully residing non-citizen pregnant women and children under the age of 19 in the Commonwealth's Medicaid and CHIP programs.

This change is the result of passage of legislation during the 2012 Session of the Virginia General Assembly. House Bill 183 and Senate Bill 568 amended the *Code of Virginia* by adding a provision for the Commonwealth, through the authorization given to States through Section 214 of the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 Public Law 111-3, to provide medical assistance coverage to children and pregnant women who are lawfully residing in the United States and who are otherwise eligible for coverage through the Commonwealth's Medicaid, FAMIS and FAMIS MOMS program.

As a result of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, limitations were placed on receipt of medical assistance coverage for most lawfully admitted non-citizens. Currently, most lawfully admitted pregnant women who are otherwise eligible for Medicaid are subject to a five year waiting period before eligibility for full Medicaid coverage can begin and are eligible only for Medicaid payment of an emergency medical condition. The five year waiting period also applied to lawfully admitted non-citizen children and pregnant women under CHIP.

Section 214 of CHIPRA changed the requirement set out in PRWORA by permitting States, at their option, to cover certain non-citizen children and pregnant women who are lawfully residing in the United States and otherwise meet the criteria for coverage under Medicaid or CHIP, but who are barred from participation in the program during their first five years of residence in the United States. This CHIPRA provision terminates the application of the five year waiting period means to these otherwise qualified non-citizen pregnant women and children. Under CHIPRA therefore this population now qualifies for medical assistance coverage and DMAS regulations must reflect this federal change.

Virginia currently covers children under the age of 19 in the Medicaid program through this CHIPRA provision, so this regulatory package will add coverage of otherwise eligible pregnant women through Medicaid and coverage of children under age 19 and pregnant women through FAMIS and FAMIS MOMS. This action is being promulgated pursuant to Code of Virginia § 2.2-4006(A)(4)(a), because these changes are "[n]ecessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved."

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 amended regulations: General Conditions of Eligibility (12 VAC 30-40-10), Eligibility Determination and Application Requirements (12 VAC 30-141-100) and Eligibility Requirements (12 VAC 30-141-740) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012.1, of the Administrative Process Act and is full, true, and correctly dated.

5/31/12

Date

/s/ Cynthia B. Jones

Cynthia B. Jones, 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 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. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.