



Fast Track Proposed Regulation Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation	12 VAC 30-100-400 through 12 VAC 30-100-490
Regulation title	State Programs
Action title	Repeal Health Insurance for the Working Uninsured
Date this document prepared	

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

This action repeals the regulations associated with the Health Insurance for the Working Uninsured Program proposed by the General Assembly in 1998. Though DMAS promulgated regulations for the program in response to the legislative mandate, the program failed to implement due to lack of funding. The regulations for the program contain a sunset provision terminating the program two years after its start, located at 12 VAC 30-100-490. These regulations have been obsolete for twelve years, and are therefore being repealed.

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 Regulatory Review Summary with the attached amended State Regulations (12 VAC 30-100-400 through 12 VAC 30-100-490 - Health Insurance for the Working Uninsured Program) 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.

Date

Cynthia B. Jones, Director
Dept. of Medical Assistance Services

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, 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 the regulation 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 purpose of this action is to repeal the regulations associated with the Health Insurance for the Working Uninsured Program. Due to a lack of support in the private sector, this program never got off the ground. The program was set to implement in 1998, therefore the program regulations have never had any legal effect.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i)

file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The Fast-Track process was chosen for this action because it is essentially a house-keeping matter that is non-controversial. It is also part of the Governor's Regulatory Reform Initiative. While the substance of this action is technical in nature, because there is no General Assembly mandate, court order or other law directing the Agency to repeal this regulation, DMAS cannot use the Final Exempt process for this action.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

The sections of the State regulations that are affected by this action are 12 VAC 30-100-400 through 12 VAC 30-100-490, covering the defunct Health Insurance for the Working Uninsured Program.

In 1998 the General Assembly directed DMAS to promulgate regulations implementing public-private partnership to create a greater safety net to assist working individuals who either could not afford health insurance or otherwise had no sustainable access to health insurance. DMAS was tasked with creating a network of hospitals, managed care organization and other health care providers to donate funds to DMAS that would cover the cost of insurance for the working uninsured. Despite DMAS' efforts, an insufficient number of health care providers expressed interest in the program to make it viable.

This program failed to implement over a decade ago and these regulations are not necessary. There is no chance of this program being revived in light of both the Medicaid Works program and health care reform. The Medicaid Works program permits Medicaid enrolled individuals to work and earn incomes above the Medicaid income limits. The expansion of the availability of insurance for the working uninsured pursuant to national health reform also negates any chance that this program would be resurrected.

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.*
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The primary advantage of this action to both the public and the Agency is the removal of unnecessary regulations from the Virginia Administrative Code. There are no disadvantages to the public.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

No requirements in this action are more restrictive than federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There will be no localities that are more affected than others as the repeal of these regulations shall apply statewide.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulatory action is not expected to affect small businesses as it does not impose compliance or reporting requirements, or deadlines for reporting, nor does it establish performance standards to replace design or operational standards.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	None
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	None
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	None
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	None
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	None
Beneficial impact the regulation is designed to produce.	Reduction in unnecessary regulations.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The only alternative would be for DMAS to leave these regulations in the Virginia Administrative Code. This option serves no purpose, while there is value in removing the defunct regulations.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) 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; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; nor 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.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12 VAC 30-100-400 through 12 VAC 30-100-490	N/A	Regulations for the Health Insurance for the Working Uninsured Program	Repeals these unnecessary and obsolete regulations