



COMMONWEALTH of VIRGINIA  
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**MEMORANDUM**

**TO:** BRIAN MCCORMICK  
Department of Medical Assistance Services

**FROM:** ELIZABETH M. GUGGENHEIM   
Assistant Attorney General

**DATE:** November 14, 2014

**SUBJECT:** Fast Track Regulations regarding Transition Services, 12 VAC 30-120-2010

I have reviewed the attached proposed regulation, which would provide coverage of the first month's rent as an allowable cost for individuals transitioning from an institutional setting to a community setting. Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Va. Code § 32.1-324 and with the authority provided for by 42 U.S.C. § 1396n(k)(1)(D) and Item 301FFFF of the *2014 Acts of Assembly*, has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

Please be aware that this review is based solely upon whether DMAS has the legal authority to promulgate this regulation, not the appropriateness of whether it should be promulgated pursuant to the fast track process. Pursuant to Virginia Code § 2.2-4012.1, if an objection to the use of the fast-track process is received within the 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 Department of Medical Assistance Services shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you have any questions or need any additional information, please feel free to call me at 786-2071.

cc: Kim F. Piner  
Senior Assistant Attorney General