



**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 Supervisor  
Virginia Department of Medical Assistance Services

**FROM: USHA KODURU**  
Assistant Attorney General

**DATE: September 15, 2010**

**SUBJECT: Exempt Final Regulations to Terminate Providers Participating in Waiver Services**

I have reviewed the attached exempt final regulations that will allow the Medicaid Director to terminate or deny providers who have pled guilty to felony charges in accordance with Virginia Code §32.1-325. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services (“DMAS”) has the legal authority to promulgate the regulation and if the regulation comports with state and federal law.

Senate Bill 193 directs DMAS to amend these regulations. Based on my review, it is my view that the Director of DMAS, acting on behalf of the Board of Medical Assistance Services, pursuant to Virginia Code §§ 32.1-324 and 325, has the authority to amend these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act (“APA”) and has not exceeded that authority.

Based on the foregoing, it is my view that the amendment of these regulations are exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A).

Brian McCormick  
September 15, 2010  
Page 2

If you have any questions, please contact me at 786-4074.

cc: Kim F. Piner, Esquire

Attachment