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MEMORANDUM

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

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

DATE: **August 28, 2014**

SUBJECT: **Exempt final regulation regarding methods and standards for fee-for-service reimbursement (12 VAC 30-95-5)**

I have reviewed the final exempt regulation that would change the reference from the International Classification of Diseases (ICD), 9th edition, to the ICD, 10th edition. You have asked the Office of the Attorney General to review the proposed regulation to determine if DMAS has the legal authority to promulgate the regulation as final exempt and if it would 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.

The regulation is required by Public Law No. 113-93. It is my view that the promulgation of this regulation is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Virginia Code § 2.2-4006(A)(4)(c).

If you have any questions, please feel free to contact me at 786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General