



Periodic Review / Retain Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12 VAC5-408
Regulation title	Regulation for the Certificate of Quality Assurance of Managed Care Health Insurance Plan (MCHIP) Licensees
Document preparation date	12/6/2012

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

The "Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees Regulation" (MCHIP regulation) is promulgated by the Office of Licensure and Certification of the Virginia Department of Health, for the Board of Health, under the authority of Article 1.1 (§32.1-137.1 et seq.) of Chapter 5 of Title 32.1 of the *Code of Virginia* (Code). Section 32.1-137.1 defines managed care health insurance plan as "an arrangement for the delivery of health care in which a health carrier as defined in §38.2-5800 undertakes to provide, arrange for, pay for, or reimburse any costs of health care services for a covered person on a prepaid or insured basis." Section 32.1-137.3 mandates that the Board of Health shall promulgate regulations governing the quality of care provided to covered persons by a managed care health insurance plan licensee through its managed care health insurance plans. Existence of the MCHIP regulation is, therefore, mandated.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were

rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

The department is required to certify managed care health insurance plans licensees as defined in § 32.1-137.1 of the Code. The regulation is necessary to carry out the mandate of the law.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Doug Gray Executive Director Virginia Association of Health Plans (VAHP)	Due to the age of the regulation and upcoming changes in health insurance regulation as a result of the Affordable Care Act ("ACA"), VAHP recommends that a study be conducted to review the existing regulation and laws relevant to this regulation resulting in the proposal of appropriate revisions and amendments to both the laws and regulation.	The suggestion of a study to amend Article 1.1 of Chapter 5 of Title 32.1 pursuant to the federal ACA, and subsequently the regulation, is beyond the scope of this periodic review. However, the department looks forward to working with the association once the parameters and implementation of the Affordable Care Act (ACA) are more defined.

No informal advisory group was formed for assisting in this periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The MCHIP regulation is clearly written and understandable and meets the criteria set out in E.O. 12.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The Department of Health is recommending that the regulation remain in effect without change at this time.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The MCHIP quality assurance certification program is designed to address the quality of care provided to persons covered by managed care health insurance plans. Regulation is the tool used by state agencies to provide the necessary consistency for both health insurance carriers and state officials to assess, measure and improve the health status of covered persons. Last evaluated in 2008, the regulation still meets the intent and purpose of the state mandate. Repeal of the regulations can only be achieved through legislative action. The federal Affordable Care Act, enacted in 2010, provides regulations for those health insurance carriers opting to participate in the health benefit exchanges created by the ACA. However, Virginia has not yet established its framework or plan for meeting the federal mandate. The department will continue to monitor the MCHIP program and the ACA and will seek amendment of the regulation in the event such action is deemed warranted. Small businesses are not impacted unless they choose to enter the health insurance market and are subject to licensure under the Bureau of Insurance of the State Corporation Commission.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

There is no direct impact on the institution of the family or family stability.