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Final Regulation Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation	12 VAC 30, Chapter 120
Regulation title	MEDALLION
Action title	Changes from BBA
Document preparation date	

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This final regulation reflects several types of changes to the MEDALLION primary care case management (PCCM) system. This regulation revises and updates the MEDALLION regulations to address several operational and waiver changes in the MEDALLION program. Some of these changes are due to changes in federal law pursuant to the Balanced Budget Act (BBA), which the states have discretion to implement. Other changes are being made to clarify existing regulations. Finally, certain of the amendments in this package are being made to conform these regulations with other Medicaid programs, such as changes to the school health services. Revisions are being made in the following sections of the MEDALLION regulations: Definitions (12 VAC 30-120-260), changes and additions to the enrollment/disenrollment process set forth in 12 VAC 30-120-280, new types of providers added in 12 VAC 30-120-290, several new types of referral exemptions in 12 VAC 30-120-310, changes to the maximum number of clients a primary care provider (PCP) may serve in 12 VAC 30-120-320, and in the PCP Sanctions section (12 VAC 30-120-350), changes to include greater penalties for PCP misconduct.

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 Agency Background Document with the attached amended State regulations MEDALLION 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 and is full, true, and correctly dated.

Date

Patrick W. Finnerty, Director
Dept. of Medical Assistance Services

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Code of Virginia (1950) as amended, section 32.1-325, grants to the Board of Medical Assistance Services the authority to administer the Plan for Medical Assistance. The Code of Virginia (1950) as amended, section 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board’s requirements. The Medicaid authority was established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a], which provides the governing authority for DMAS to administer the State’s Medicaid system.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

This regulatory action is expected to have a positive impact on the health, safety and welfare of Virginia citizens. The changes set forth in this regulation enhance the ability of MEDALLION enrollees to make health care choices, specifically with regard to enrollment and disenrollment. These changes also provide medical service enhancements for MEDALLION clients by lowering the maximum number of patients each PCP can serve, and by creating greater sanctions for PCPs that provide substandard service or infringe on enrollee rights.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The sections of the Virginia Administrative Code that are affected by this change are 12 VAC 30-120-280 through 30-120-350. Because Chapter 120 consists of Non-State Plan regulations no sections of the State Plan for Medical Assistance are affected. The particular sections of Chapter 120 that are affected are as follows:

Definitions (12 VAC 30-120-260)

The following definitions were amended: "Action," "AFDC," "Appeal," "Area of residence," "Client," "Enrollee," "EPSDT," "Foster care," "Gatekeeper," and "Spend down." The following definitions were added: "Area of residence," "Care Coordinator," "Covered services," "Eligible person," "Enrollment broker," "Exclusion from MEDALLION," "External Quality Review Organization" (EQRO), "Health care professional," "Post-stabilization care services," "Primary Care Case Management System" (PCCM), "School health services," and "TANF."

MEDALLION clients (12 VAC 30-120-280)

42 CFR § 438.56 specifies "for cause" reasons why an enrollee can change their PCP. These new criteria are reflected in 12 VAC 30-120-280(F) regarding good cause for disenrollment. Reasons that qualify as "for cause" for a PCP change will now include: lack of access to providers, moving out of the service area, and lack of availability of the services sought by the enrollee. Additionally, these regulations provide that enrollees may change their PCP without cause at any time during the 90 days following their initial enrollment. In addition, several Medicaid recipient groups were added to the list in 12 VAC 30-120-280 of those recipients excluded from participation in the MEDALLION program to conform to the groups listed in the MEDALLION waiver.

Providers of service (12 VAC 30-120-290)

DMAS amended the types of providers that may provide MEDALLION PCP services to include Federally Qualified Health Centers (FQHC).

Services exempted from MEDALLION referral requirements (12 VAC 30-120-310)

Amendments to this section add seven medical services to the list of services that are exempted from MEDALLION referral requirements. These services are: school health services provided pursuant to IDEA, treatment of sexually transmitted diseases, targeted case management services, transportation services, pharmacy services, substance abuse treatment for pregnant women, mental retardation waiver services and mental health community rehabilitation services, dental services and family planning services.

PCP payments (12 VAC 30-120-320)

To be consistent with MEDALLION Waiver requirements, this amendment lowers the maximum number of MEDALLION clients that can be in a PCP’s panel from 2,000 to 1,500. It also adds a panel maximum of 10,000 enrolled recipients for certain local health department clinics, Federally Qualified Health Centers, Rural Health Centers and other DMAS approved clinics.

PCP Sanctions (12 VAC 30-120-350).

Changes to this subsection expand the list of actions for which a PCP may be sanctioned, and add certain civil money penalties that may be imposed.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

No disadvantages to the public have been identified in connection with these regulations. The agency projects no negative issues involved in implementing this regulatory change.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There are several changes in the regulations, since the proposed stage. In the Definitions section (12 VAC 30-120-260) the definition for “Client or clients” included the terms “recipient,” “enrollee” and “participant.” In the final regulation these terms are removed from the definition of “Client or clients.” In the proposed regulation the definition for “Enrollee” was deleted, but is being restored in the final regulation. In the proposed regulation the term “Gatekeeper” was replaced by the term “Care Coordination,” which in the final regulation is being changed to “Care Coordinator” and placed in 12 VAC 30-120-260 in alphabetical order. In the definition for “School health services in the proposed regulation the reference to “school health assistants” is being removed in the final regulation.

DMAS deleted a phrase from 12 VAC 30-120-310(A)(8)(Services exempted from MEDALLION referral requirements); the proposed regulation referenced, “EPSDT well-child exams (health departments only and under age 21).” DMAS deleted the parenthetical phrase “health departments only and under age 21.” In 12 VAC 30-120-290 (Providers of services)

DMAS added a reference to 42 CFR 405.2401, which defines Federally Qualified Health Center and Rural Health Clinic, and added language to clarify that the “certain Local Health Departments” referred to are clinics administered by Local Health Departments. In 12 VAC 30-120-310(A)(16)(Services exempted from MEDALLION referral requirements), the phrase “mental retardation waiver services” was added to enhance clarity. In 12 VAC 30-120-320(D)(PCP payments) DMAS added similar language to clarify that the “clinics” enrolled as Medicaid providers” refers to Federally Qualified Health Centers, Rural Health Clinics and Department of Health clinics. DMAS also made several other minor changes to the text of various regulations to enhance clarity.

Public comment

Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.

DMAS' proposed regulations were published in the June 28, 2004, *Virginia Register* (20:21) for their public comment period from 6/28/2004 through 8/27/2004. One public comment was received, from the Medical Society of Virginia (MSV). The MSV requested an explanation of the rationale for changing the number of enrollees that may be assigned to a PCP from 2,000 to 1,500. DMAS’ response is that this change was made to improve quality of enrollee care by reducing the chances of patient overload. MSV’s second issue regarded DMAS’ expansion of sanctions available against providers. DMAS’ response is that the Balanced Budget Act provided for these sanctions for provider violations.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Current requirement	Proposed change and rationale
12VAC30-120-260	Definitions: addresses the following: “Action,” “AFDC,” “Client,” “Enrollee,” “Gatekeeper,” and “Spend down.”	<ul style="list-style-type: none"> ▶ “Action” is expanded to include changes in level of service and denial (total/partial) of payment for service. ▶ “AFDC” was changed to Temporary Assistance to Needy Families (TANF), so this definition now references that. ▶ “Client” now includes as synonymous terms “recipient,” “enrollee,” and “participant.” ▶ “Enrollee” is being deleted as it is now included in the definition of “Client.”

<p>12VAC30-120-280(B)</p>	<p>List of Recipients Excluded from Enrollment in MEDALLION</p>	<ul style="list-style-type: none"> ▶ Those enrolled in Client Medical Management. ▶ Individuals participating in home and community-based federal waiver programs. ▶ Individuals enrolled in residential treatment or treatment foster care, or the family planning waiver. ▶ Individuals whose eligibility period is retroactive only. ▶ Individuals enrolled in the Family Planning waiver. ▶ Discretionary exclusion list is expanded to include those who receive hospice services.
<p>12VAC30-120-280(C)</p>	<p>▶ 24-hour access number put on MEDALLION card.</p>	<p>▶ This reference was deleted because separate MEDALLION cards are no longer being issued.</p>
<p>12VAC30-120-280(D)</p>	<p>▶ Changing PCPs: reasons for changing PCPs.</p> <p>▶ Clients notify DMAS of PCP selection within 30 days.</p>	<p>▶ New clause added that individuals who lose, then regain their eligibility within 60 days shall be reassigned to their original PCP.</p> <p>▶ Clients notify DMAS within 30-45 days.</p>
<p>12VAC30-120-280(F)</p>	<p>▶ Changing PCPs.</p>	<p>▶ Added reasons for changing PCP to include performance that falls below generally accepted community practice of health, and other reasons as determined by DMAS.</p>
<p>12VAC30-120-280(G)</p>	<p>▶ MEDALLION I.D. cards issued.</p>	<p>▶ This reference was deleted because separate MEDALLION cards are no longer being issued.</p>
<p>12VAC30-120-280(H), now (G)</p>	<p>▶ Prior authorization exclusions.</p>	<p>▶ Family planning services were added to the list of services excluded from the prior authorization requirement.</p>
<p>12VAC30-120-290</p>	<p>Providers of services.</p>	<p>▶ Federally Qualified Health Centers (FQHC), Rural Health Centers and certain local Health Departments were added to list of PCPs that may provide MEDALLION services.</p>
<p>12VAC30-120-310</p>	<p>Services exempted from MEDALLION referral requirements.</p>	<p>▶ Added the following services to list of referral exempt services: school health services, treatment of sexually transmitted diseases, targeted case management,</p>

12VAC30-120-310	Services exempted from MEDALLION referral requirements	transportation, pharmacy, substance abuse treatment for pregnant women, and MH/MR community rehabilitation.
12VAC30-120-320	PCP Client Limits. ▶ PCPs may have an assigned panel maximum of 2,000 clients.	▶ Changed to a maximum of 1,500.
12VAC30-120-320	PCP Client Limits.	▶ Added clause that Federally Qualified Health Centers (FQHC), Rural Health Centers and certain local Health Departments are limited to panels of 10,000.
12VAC30-120-350	PCP remedies for violation of contract terms.	▶ This section is now entitled “ Sanctions. ” ▶ New violations/sanctions added:
12VAC30-120-350	PCP remedies for violation of contract terms.	▶ failure to provide medically necessary services (maximum of \$25,000 fine). ▶ imposes on enrollees cost-sharing measures not permitted by DMAS (maximum of \$25,000 fine or double the amount of excess charges, whichever greater). ▶ discrimination based upon health status or need for health services (\$15,000 per enrollee discriminated against, cap at \$100,000). ▶ misrepresents/falsifies information provided to enrollees (maximum of \$25,000 fine) or to the Commonwealth (maximum \$100,000 fine). ▶ improper marketing (maximum of \$25,000). ▶ any other violations under sections 1932 or 1905(t)(3) of the Social Security Act.
12VAC30-120-350(5)	Termination.	▶ Adds clause that once DMAS notifies a PCP that it intends to terminate its contract, DMAS shall allow the PCP’s enrollees to disenroll immediately.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulation is projected to have a positive impact on recipients or their families. Items were amended to clarify interpretation and facilitate a better understanding for recipients and providers with regard to several definitions. The changes were made to provide greater flexibility with

regard to enrollment and disenrollment, as well as to increase client protection. Changes to this regulation will not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; encourage or discourage economic self-sufficiency, self-pride; the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; strengthen or erode the marital commitment.