MEMORANDUM

TO: **RENEE WHITE**
Regulatory Coordinator
Virginia Department of Medical Assistance Services

FROM: **USHA KODURU**
Assistant Attorney General

DATE: **January 25, 2006**

SUBJECT: **Fast Track Regulation to Revise Appeals Regulations**

I am in receipt of the attached regulation to revise the Department of Medical Assistance Services' ("DMAS") appeals regulations. You have asked the Office of the Attorney General to review and determine if the DMAS" has the legal authority to promulgate the regulation and if the regulation comports with state and federal law.

Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Va. Code § 32.1-324, has the authority to promulgate these amendments to the State Plan, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. These regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to amend the regulations to clarify the appeals procedures. However, 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 additional information, please contact me at 786-4905.

cc: Kim F. Piner, Esquire

Attachment