



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory Supervisor
Virginia Department of Medical Assistance Services

FROM: USHA KODURU
Assistant Attorney General

DATE: February 23, 2011

SUBJECT: Exempt Final Action Making Technical Corrections to Reimbursement Regulations

I have reviewed the attached exempt final regulations that makes technical corrections regarding reimbursement for Inpatient Hospital Services, Long-Term Care Services and other types of Services. 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 amend the regulations and if the regulations comport with state and federal law.

The changes to 12 VAC 30-70 are necessary to conform the regulations to changes that have been made in the State Plan for Medical Assistance as requested by the Centers for Medicare and Medicaid Services. The changes to 12 VAC 30-80 reconcile cost report filing requirements to actual practice and eliminate text regarding reimbursement for inpatient hospital services that is covered in 12 VAC 30-70. The changes to 12 VAC 30-90 update Federal and state agency names, clarify the reimbursement methodology for facilities operated by the Department of Veterans Services and for Intermediate Care Facilities for the Mentally Retarded, and codify the agency’s practice in granting exceptions o providers of the nursing facilities occupancy requirements. Based on my review, 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

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regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act (“APA”) and has not exceeded that authority.

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)(3).

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

cc: Kim F. Piner, Esquire

Attachment