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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	Department of Medical Assistance Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12 VAC 30-50-160 and 12 VAC 30-60-70
<b>VAC Chapter title(s)</b>	Home Health Services; Utilization Control: Home Health Services
<b>Action title</b>	Home Health Changes Due to Federal Regulatory Change
<b>Final agency action date</b>	6/22/2020
<b>Date this document prepared</b>	6/22/2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

CMS amended its regulations for Home Health on May 8, 2020 (in 85 Federal Register 27626) to allow practitioners other than physicians to order and certify home health services. DMAS must change its regulations to maintain compliance with the new federal rules.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

The regulatory change announced on May 8, 2020 in 85 Federal Register 27626 states that practitioners other than physicians may order and certify home health services. This change has been incorporated into 42 CFR 440.70.

This action is exempt from the regulatory process in accordance with Va. Code 2.2-4006(A)(4)(c).

### **Statement of Final Agency Action**

*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.*

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DMAS has submitted Final Exempt changes to 12 VAC 30-50-60, “Home Health Services” and 12 VAC 3050-170, “Utilization Control: Home Health Services” in order to permit practitioners other than physicians to order and certify home health services.