Meeting of the Board of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia

April 19, 2016
DRAFT Minutes

Present:
Alexis Y. Edwards
Rebecca E. Gwilt, Esq.
Maureen Hollowell
Maria Jankowski, Esq.
Peter R. Kongstvedt, M.D.
McKinley L. Price, D.D.S.
Karen S. Rheuban, M.D.
Chair
Marcia Wright Yeskoo

Absent:
Mirza Baig
Cara L. Coleman, JD, MPH

Via Phone:
Michael H. Cook, Esq.

DMAS Staff:
Linda Nablo, Chief Deputy Director
Cheryl Roberts, Deputy Director for Programs
Karen E. Kimsey, Deputy Director for Complex Care Services
Abrar Azamuddin, Legal Counsel
Craig Markva, Manager, Office of Communications, Legislation & Administration
Nancy Malczewski, Public Information Officer, Office of Communications, Legislation & Administration
Mamie White, Public Relations Specialist, Office of Communications, Legislation & Administration

Speakers:
Cynthia B. Jones, Director
Scott Crawford, Deputy Director for Finance
Suzanne Gore, Deputy Director for Administration

Guests:
Cecelia Kirkman, SEIU Healthcare
Rick Shinn, VCHA
Tyler Cox, MSV
Chris Law, Xerox
Evonne Stellato, Allergan
Kenneth McCabe, DPB
Richard Grossman, VECTRE
And, additional attendees

CALL TO ORDER

Dr. Karen S. Rheuban called the meeting to order at 10:02 a.m. and announced the appointment of new members Cara L. Coleman, JD, Rebecca E. Gwilt, Esq., and her reappointment. Dr. Rheuban acknowledged Mr. Michael Cook participating by phone. Then, Dr. Rheuban asked other members to introduce themselves and introductions continued around the room.

Dr. Rheuban expressed gratitude to Dr. Wynn and Mr. Ewald for their service on the Board.

APPROVAL OF MINUTES FROM December 8, 2015 MEETING

Dr. Rheuban asked that the Board review and approve the Minutes from the December 8, 2015 meeting. Ms. Yeskoo made a motion to accept the minutes and Ms. Hollowell seconded. The vote was 5-**yes (Hollowell , Gwilt, Kongstvedt, Rheuban, and Yeskoo); 1 abstention (Price) and 0-no. (Because of state "open meeting laws," the vote of anyone participating by phone could not be counted.)**

Election of Chairman/Vice Chairman

Dr. Rheuban then turned the meeting over to Ms. Jones for the election process. Ms. Jones noted that the Board bylaws require the election of officers for the Board the first meeting after March 1st of each year and opened the floor to accept nominations for Chair.

Dr. Kongstvedt made a motion to nominate Dr. Rheuban to continue to serve as Chair and Ms. Yeskoo seconded. Hearing no further nominations, the nominations were closed. The vote to elect Dr. Rheuban as Chair was **6-yes (Edwards, Gwilt, Hollowell, Kongstvedt, Price, and Yeskoo); 0-no.**

Ms. Edwards joined the meeting during election of Chair.

Ms. Jones opened the floor to accept nominations for Vice Chair. Dr. Rheuban made a motion to nominate Dr. Kongstvedt for Vice Chair. Dr. Price seconded. Hearing no other nomination, the nominations were closed. The vote to elect Dr. Kongstvedt as Vice Chairman was **6-yes (Edwards, Gwilt, Hollowell, Price, Rheuban and Yeskoo); 0-no.**

Selection of Secretary

Ms. Jones then opened the floor to accept nominations for Board Secretary. Dr. Price made a motion to accept Mamie White as Board Secretary and Dr. Kongstvedt seconded. The vote to elect Ms. White as Secretary was **7-yes (Edwards, Gwilt, Hollowell, Kongstvedt, Price, Rheuban and Yeskoo); 0-no.**

DIRECTOR'S REPORT AND STATUS OF KEY PROJECTS

Ms. Cynthia B. Jones, Director of DMAS, shared the University of Virginia (UVA) announcement of the UVA Center for Telehealth taking on the name of its founder and director, Dr. Karen Rheuban. Dr. Kongstvedt made a motion and Dr. Price seconded recognizing Dr. Rheuban's contribution for helping to found the Center and its success becoming one of the marquee telemedicine programs in the nation under her direction.

Ms. Jones provided a copy of the State Fiscal Year 2015 Virginia Medicaid and CHIP Data Book which is available on the DMAS website. This book is referred to as the "Yellow Book" and contains statistical information.

Ms. Jones provided highlights of the status of the Governor's *A Healthy Virginia Plan* which is targeted on initiatives to improve health care in Virginia. The monthly updates on this Plan are provided to the members. Additionally, she briefly discussed agency priorities including the upcoming release of the following Requests for Proposals (RFP); Managed Long Term Services and Supports (MLTSS), the rebid of the Medallion 3.0 managed care contract, the Substance Use Disorders (SUD) services and waiver, and the Delivery System Reform Incentive Program (DSRIP). She mentioned several other upcoming RFPs being offered, including the Medicaid Enterprise System (MES), Transportation and Fiscal Services for Consumer Directed Attendants.

Ms. Jones announced the addition of a Chief Medical Officer, Dr. Kate Neuhausen, to the DMAS staff and the addition of a new division that is named Procurement and Contract Management.

Ms. Jankowski joined the meeting during this presentation.

OVERVIEW OF 2016 GENERAL ASSEMBLY BUDGET ACTIONS

Mr. Scott Crawford, Deputy Director for Finance, gave an overview of budget actions since the 2016 General Assembly Session. The Virginia General Assembly adjourned "sine die" for the 2016 Regular Session on March 12, 2016. The Governor would make his recommendations to this budget for the two year period covering July 1, 2016 to June 30, 2018 during the reconvened session on April 20, 2016 (see attached handout).

2016 GENERAL ASSEMBLY UPDATE

Ms. Suzanne Gore, Deputy Director for Administration, provided highlights of some of the 2016 legislation which impacted DMAS during the 2016 General Assembly Session and provided potential program changes mandated in the 2016 Conference report. She particularly noted that a significant amount of the policies and programs are now in the budget rather than in the legislation (see attached draft handout).

BMAS AGENDA PLANNING FOR 2016

Dr. Rheuban asked Board members to provide input into agenda planning for future meetings and urged them to forward their suggestions to the Board Secretary or her. Members expressed a desire to be more beneficial and proactive with assisting staff.

REGULATORY ACTIVITY SUMMARY

The Regulatory Activity Summary is included in the Members' books to review at their convenience (see attached).

OLD BUSINESS

None.

ADJOURNMENT

Dr. Rheuban asked for a motion to adjourn the meeting at 11:53 a.m. Ms. Jankowski made a motion to adjourn the meeting and Dr. Price seconded. The vote was unanimous. 8**-yes** (**Edwards, Gwilt, Hollowell, Jankowski, Kongstvedt, Price, Rheuban, and Yeskoo); 0-no.**

Department of Medical Assistance Services

Overview of 2016 General Assembly Budget Actions

Presentation to the
Board of Medical Assistance Services

April 19, 2016

Budget Amendment Funding - DMAS

	FY2017		FY2018	
	General Funds	Total Funds	General Funds	Total Funds
Base Appropriation	**$4,099**	**$9,037**	**$4,099**	**$9,037**
Utilization & Inflation Forecasts	$305.7	$618.2	$414.6	$832.1
Budget Amendments	$6.7	$85.9	$33.9	$115.8
Conference Budget	**$4,411**	**$9,741**	**$4,548**	**$9,985**
Net Change	$312.3	$704.1	$448.5	$947.9

*Appropriation and amendments reflect all DMAS programs, in millions

Utilization & Inflation Forecasts

- Updated Medicaid & CHIP Forecasts resulted in a need of $720 million GF over the biennium

- Higher than expected enrollment of low-income adults began in FY 2015
  - FY15 costs were higher than projected and $73M GF in payments had to be delayed until FY16

- Higher than expected increases by federal government for Medicare buy-ins
  - 15% increase in Medicare Part B Premiums effective Jan 2016
  - 11.6% increase in Medicare Part D "Clawback" rate effective Jan 2016

- Implementation of Department of Labor CD-Attendant Overtime Rule Jan 2016

- Primarily one-time increases ("level-shifts") as opposed to increasing growth trends; higher growth rate in FY16 returning to "normal" growth rate in FY17 and FY18

Budget Amendments

- Fund comprehensive Medicaid benefit package for Substance Abuse Disorder (SUD) treatment – ($2.6 GF FY17; $8.4M GF FY18)

- Provide additional waiver slots – ($19.4M GF FY17; $37M FY18)
  - 770 slots in FY17
  - 440 slots in FY18

- Support implementation of Waiver Redesign ($13.3M GF FY17; $23.7M GF FY18)
  - Average 5.4% rate increase on current services
  - Addition of new services

Budget Amendments

- Increase rates for agency and consumer directed attendants 2% – ($7.1M GF FY17; $8.0M FY18)
- Increase rates for private duty nursing services 11.5% – ($1.2M GF FY17; $1.3M FY18)
- Increase rates for adult day health care 2.5% – ($80k GF FY17; $88k FY18)

Budget Amendments

- Increase eligibility from 60% FPL to 80% FPL for GAP program – ($16.MGF FY17; $3.8M GF FY18)
- Restore inflation calculation affecting future nursing facility rebasing ($5.6M GF FY18)
- Increase payment rate 15% for nursing homes with special populations (-$620k GF FY18)

Budget Amendments

- Physician Supplemental payments for Children's National Health System – ($276k GF FY17; $276k GF FY18)
- Add coverage for applied behavioral analysis and other behavioral therapy services for children in FAMIS– ($99k GF FY17; $122k GF FY18)
- Remove prior authorization requirements for low-dose computed tomography (LDCT) lung cancer screenings – ($52k GF FY17; $59k GF FY18)

Budget Amendments

- Savings Initiatives
  - Withhold partial FY17 and full FY18 inflation from hospitals (-$7.8M GF FY17; -$24.4M GF FY18)
  - Withhold partial FY18 inflation from nursing facilities (-$6.4M GF FY18)
  - Withhold partial FY18 inflation from outpatient rehab facilities and home health agencies (-$100k GF FY18)
  - Remove Overtime Funding for Consumer-Directed Attendants – ($14M GF FY17; $16.7M GF FY18)

Budget Amendments

- Workgroups, Reports and Studies
  - Workgroup on Alzheimer's Waiver
  - GAP outreach to DOC and local jails
  - Medicaid Physician & Managed Care Liaison Workgroup – ER Care Coordination Workgroup
  - Workgroup on Brain Injury Data and Out-of-State Services
  - DMAS report on eligible but not enrolled
  - Medicaid asset recovery program
  - DMAS analysis of pharmacy claims
  - Improve Medicaid eligibility policy and procedures
  - Improve public access to Medicaid data
  - Clarifications on Medicaid forecasting process

Budget Amendments

- Administrative Funding Amendments
  - Funding for reprocurement of new MMIS
  - Funding for implementation and support of MLTSS
  - Increased MEL for managed care operations
  - Funding for increases in costs of major contracts
  - Funding for federally-mandated 1095B notification mailing

- Language Amendments
  - DSRIP Implementation
  - Clarify Waiver Authority and Reporting Requirements

Budget Amendments

- Governor's Amendments: Reconvened Session
  - Allow limited consumer directed overtime in FY 2017 ($8.4M GF FY17)
  - Limits the prohibition on actions to expand the Medicaid Program pursuant to the Patient Protection and Affordable Care Act to the first year of the biennium.
  - Modify Delivery System Reform Incentive Program (DSRIP) language
    - Prohibiting expenditures under a potential DSRIP waiver unless the Department of Medical Assistance Services notifies the legislature of the nature of planned expenditures associated with DSRIP funds, in addition to the current provision's requirement that the agency notify the legislature of the approval of the waiver itself.

DRAFT

Legislatively Mandated Program Changes in 2016

	Short Title	Mandate	Lead Division	Deliverables/ Action	Frequency	Description	Report Audience	Final Due Date
	Yellow-deadline or attention				Green-On Track		Blue-Complete	
	2016 Legislation Impacting DMAS							
1	**PACE exemption**	HB435 (2016)	DSS - LEAD / DMAS - LTC			PACE: Exempts adult day care centers that provide services only to individuals enrolled in a PACE program from the requirement of a license issued by DSS		
2	**National Fingerprint-based Background Check**	HB536 (2016)	DBHDS/VDH ? - LEAD / DMAS - LTC			Establishes a requirement for a national fingerprint-based background check for providers of sponsored residential and shared living services		
3	**DBHDS certify Peer Providers**	HB583 (2016)	DBHDS - LEAD / DMAS - ICBH			Authorizes the Commissioner of DBHDS to certify individuals as peer providers in accordance with regulations adopted by the Board of DBHDS		
4	**Auxiliary grants for persons living in supportive housing**	HB675 (2016)	DARS - LEAD / DMAS - Policy?			Extends eligibility for auxiliary grants to include individuals living in supporting housing		
5	**DHP to provide specific info for members in PMP**	HB1044/SB491 (2016)	DHP - LEAD / HCS			Provides that DHP can provide specific patient info for members in Prescription Monitoring Program		
6	**Guardianship Notification**	HB1266 (2016)	DARS/DSS? - LEAD / DMAS - Policy			Requires that notices of guardianship appointments, modifications, and terminations be sent to DMAS. Current law requires that such notices be sent only to DSS.		
7	**APA: ex parte communication**	SB206 (2016)	Policy/Appeals					
8	**APA: reconsideration of formal hearings**	SB207 (2016)	Policy/Appeals					
9	**NP can practice in medically underserved area**	SB369 (2016)	DHP - LEAD / DMAS - Policy			Authorizes a NP to practice without the requirement for collaboration with a patient care team physician in any clinic that is located in a medically underserved area of the state		

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	Short Title	Mandate	Lead Division	Deliverables/ Action	Frequency	Description	Report Audience	Final Due Date
	Yellow-deadline or attention				Green-On Track		Blue-Complete	
10	**DSS provide info regarding receipt of public assistance**	SB455 (2016)	DSS - LEAD / DMAS - ADM			Requires DSS to provide access to information regarding an applicant's receipt of public assistance administered by DSS and approved by DMAS to receive applications and to determine eligibility for medical assistance		
11	**Personal liability for certain inspections**	SB746 (2016)	VDH - LEAD / DMAS - Policy					
12	**Transportation RFP**	SB774 (2016)	PO			Directing DMAS to issue a RFP for statewide nonemergency medical transportation by January 1, 2017		

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Legislatively Mandated Program Changes in 2016

	Short Title	Mandate	Lead Division	Deliverables/ Action	Frequency	Description	Report Audience	Final Due Date
	Yellow-deadline or attention				Green-On Track		Blue-Complete	
	2016 Program Changes in the Budget (Mandates from 2016 Conference Report - http://budget.lis.virginia.gov/amendments/2016/1/HB30/Introduced/CR/)							
1	**Restores medical costs with involuntary MH commitments**	303#1c	PR			Reflects reversal of expansion in introduced budget		
2	**Reduces medical services of involuntary mental commitments**	303#2c	Budget			Introduced budget reflected savings in Medicaid but not other programs impacted		
3	**Reduces matching funds for FAMIS**	305#1c	Budget			Introduced budget reflected savings in Medicaid but not other programs impacted		
4	**CHIP ABA SERVICES**	305#2c	Policy			DMAS shall amend state plan for the CHIP to add coverage for ABA services. REGULATORY		
5	**Appropriation to offest savings/costs with proposal to expand Medicaid**	306#1c	Budget			Not expanding pursuant to PPACA		
6	**Reduction to reflect increased revenues to VHCF**	306#2c	Budget			Allows for reduction in state's share of Medicaid funding		
7	**Increase rate for private duty nursing in EPSDT and TECH waivers**	306#3c	PR			Equalizes rates across Medicaid private duty nursing programs		
8	**Increase in adult day health services waiver rate**	306#4c	PR			Increases statewide rate for adult day health services		
9	**Increase supplemental physician payments for physicians employed at a freestanding children's hospital**	306#5c	PR			Addresses critical workforce development needs at the region's premier teaching hospital for pediatrics and bridges gap between pediatric Medicaid rate paid to Children's and Medicare rates		

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	Short Title	Mandate	Lead Division	Deliverables/ Action	Frequency	Description	Report Audience	Final Due Date
	Yellow-deadline or attention				Green-On Track		Blue-Complete	
10	**DMAS must notify SFC/HAC within 15 days of any negotiated DSRIP waiver agreement with CMS**	306#9c	Gore			If DSRIP is approved, then SFC/HAC must be notified before waiver request is sent.		
11	**DMAS must notify SFC/HAC within 30 days of any negotiated waiver agreement with CMS**	306#10c	Policy			Waiver to SFC/HAC before submission to CMS		
12	**DMAS seek federal authority to use alternative methodology for valuing real property for determining resources**	306#11c	Policy			Cost of appraisal borne by applicant or his designee		
13	**IDD WAIVER: CCCC.1**	306#12C	Kimsey/Bevan/ Smith			DMAS adjust provider rates.		
14	**IDD WAIVER: CCCC.2**	306#12c	Kimsey/Bevan/ Smith			DMAS and DBHDS add new services for redesign.		
15	**IDD WAIVER: CCCC.3**	306#12c	Kimsey/Bevan/ Smith			DMAS AND DBHDS shall collect info and feedback related to payments to family homes (ID sponsored residential services)		
16	**IDD WAIVER: CCCC.4**	306#12c	Kimsey/Bevan/ Smith			DMAS shall submit to SFC/HAC prior to submitting to CMS AND post changes on website		
17	**IDD WAIVER: CCCC.5**	306#12c	Kimsey/Bevan/ Smith			REGULATORY PROCESS		
18	**Deferral of inflation adjustment for NF rates**	306#14c	PR			DMAS interpreted as a perpetual deferral; language corrects interpretation		
19	**Inflation adjustment for NF in second year**	306#15c	PR			Introduced budget had eliminated an inflation adjustment for NF in 2nd year		
20	**Adds funding back for home health agencies in 2nd year**	306#16c	PR			Inflation adjustment for home health and outpatient rehabilitation agencies		
21	**Funding for CHKD**	306#18c	PR			Restores inflation for CHKD		

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Legislatively Mandated Program Changes in 2016

	Short Title	Mandate	Lead Division	Deliverables/ Action	Frequency	Description	Report Audience	Final Due Date
	Yellow-deadline or attention				Green-On Track		Blue-Complete	
22	**DMAS shall amend demonstration project to increase income eligibility for people with SMI**	306#20c	ICBH/Whitlock			Waiver provided primary care, outpt medical services, prescription drugs, along with behavioral health services to adults with SMI		
23	**DMAS shall amend Plan to reflect no authority to provide overtime to CD personal attendants**	306#21c	LTC/Smith			Will allow DMAS to implement emergency regulations to effect the change		
24	**DMAS shall amend Plan to increase operating rate for the Virginia Home**	306#22c	PR/Lessard			Changes reimbursement methodology for NF that serve 80% + residents with chronic and disabiling conditions		
25	**REDUCES Waiver slot funding**	306#23c	Vandegrift			Reduces federal funds for 100 reserve slots		
26	**Savings from health insurance tax on MC contracts not paid**	306#24c	Lessard / Vandegrift			Savings on health insurance tax on MC contracts		
27	**Restores inflation funding for two state teaching hospitals due to no expansion**	306#25c	Vandegrift			Language corrects GF for two state teaching hospitals		
28	**WAIVER: 2. add 200 DD slots**	306#26c	Kimsey			On list as of June 30, 2016		
29	**WAIVER: 3. 40 DD reserve slots and REGULATORY ACTION**	306#26c	Kimsey			DMAS shall seek federal approval…		
30	**Reduces funding for CHIP lower hospital rates based on rebasing methodology**	308#1c	Lessard			Hospital rates are rebased every 3 years		
31	**Eliminates funding for Medicaid expansion**	310#1c	Budget			Expansion is removed		

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	Short Title	Mandate	Lead Division	Deliverables/ Action	Frequency	Description	Report Audience	Final Due Date
	Yellow-deadline or attention				Green-On Track		Blue-Complete	
32	**1. DMAS shall implement provisions to improve eligibility policy and procedures based on JLARC report by 10/1/17**	310#2c	Nablo			Apply same protocols by 10/1/2017		
33	**2. DMAS make reg change for those who will not allow use of federal tax returns for eligibility determination**	310#2c	Nablo/Policy			DMAS implement necessary reg changes		
34	**Reduces funds to cover increase in costs of three adm contracts: enrollment worker, actuary and audit contract**	310#9c	Procurement/ Contract Mgt			DPB shallnot allot until DMAS provides documentation on the contract award amounts		
35	**Reduces funds for the ongoing costs of the CoverVirginia call center**	310#10c	Mendoza			ACA requires individuals be notified by insurers of the status during the year.		
36	**Removes funding to support the Commonwealth Health Information Exchange**	310#11c	Vandegrift			State has not received federal approval to makes these payments		

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Legislatively Mandated Program Changes in 2016

	Short Title	Mandate	Lead Division	Deliverables/ Action	Frequency	Description	Report Audience	Final Due Date
	Yellow-deadline or attention				Green-On Track		Blue-Complete	
	2016 Program Changes - Multi-Agency Coordination (DMAS SECONDARY) (Mandates from 2016 Conference Report - http://budget.lis.virginia.gov/amendments/2016/1/HB30/Introduced/CR/)							
1	**VDH telemedicine pilot program**	196#2c	Newhausen/ Rheuban			This amendment provides funds to implement SB369 which creates a pilot program for nurse practitioners to practice in medically underserved areas of the state and practice under a physician team through telemedicine.		
2	**Mental Health Treatment Centers**	319#1c	Whitlock/Bevan		One-time	This amendment eliminates language directing DBHDS to begin the detailed planning process to close Catawba Hospital. In addition, the amendment directs funding to be used to hire a consultant to determine the most appropriate model of care for the geriatric population with mental illness.	GOV/HAC/SFC	12/15/16
3	**Plan for Geropsychiatric Services**	319#3c	Kimsey		One-time	This amendment adds funding and language directing DBHDS to develop a comprehensive plan for the publicly funded geropsychiatric system of care and sets out requirements for the plan, including an assessment of the needs of individuals residing in state geropsychiatric facilities, as well as community capacity to meet their treatment needs.	GOV/HAC/SFC and Chair of Jt. Subcommittee to study MH Services in the 21st Century	11/10/16

Regulatory Activity Summary April 19, 2016
(* Indicates recent activity)

2016 General Assembly

***(01) Three Waiver Redesign:** This emergency regulatory action is required by 2016 budget language. The Individual and Family Developmental Disabilities Support Waiver is changing to the Family and Individual Supports Waiver (FIS); Intellectual Disability Waiver is changing to the Community Living Waiver (CL), and; the Day Support Waiver for Individuals with Mental Retardation is changing to the Building Independence Waiver (BI). This redesign effort, ongoing between DMAS, DBHDS, consultants, and stakeholders for the last two years, combines the target populations of individuals with both intellectual disabilities and other developmental disabilities and offers new services that are designed to promote improved community integration and engagement. The regulation has been drafted and is circulating internally for review prior to submission to the Office of the Attorney General (OAG).

***(02) Managed Long Term Care Services and Supports (MLTSS):** This emergency regulatory action is required by 2016 budget language. The regulation changes will transition the majority of the remaining Medicaid fee-for-service populations into an integrated, managed long-term services and supports (MLTSS) program. DMAS intends to launch an MLTSS program that provides a coordinated system of care that focuses on improving quality, access, and efficiency. The regulations are currently being drafted.

2015 General Assembly

***(01) Pre-Admission Screening Changes:** This regulatory action is required by 2015 budget language. The regulation will improve the preadmission screening process for individuals who will be eligible for long-term care services. These regulatory changes were drafted and reviewed internally, and have been submitted to the OAG.

***(02) Sterilization Compensation:** This regulation will allow DMAS to seek federal authority to exclude (for purposes of determining Medicaid eligibility) compensation provided to individuals who were involuntarily sterilized pursuant to the Virginia Eugenical Sterilization Act. A state plan amendment containing this change was approved by CMS on July 30, 2015 and an emergency regulation became effective on 11/23/2015. Proposed stage regulations have been drafted and are being reviewed internally.

***(03) FAMIS MOMS Eligibility for State Employees:** This regulatory action will permit low-income state employees and their dependents to obtain coverage through FAMIS MOMS. The NOIRA for this package is being printed in the Register on 9/7/2015, which will open a 30-day public comment period. The comment period closed on 10/7/2015, and the proposed stage regulations were drafted and reviewed internally. They were submitted to the OAG for review on 1/22/2016.

***(04) Technology Assisted Waiver Changes:** This regulatory action will change the use of private duty nursing; change the staff experience requirement to include a training program; and remove the reference to exhausting private insurance coverage. The proposed stage was drafted, reviewed internally, and submitted to the OAG on 2/19/2016.

***(05) Non-Institutional Provider Reimbursement Changes:** This regulatory action combines three separate items required by 2015 budget language. First, this regulatory action will eliminate the requirement for pending, reviewing, and reducing fees for emergency room claims. Second, it will increase supplemental payments for physicians affiliated with freestanding children's hospitals with more than 50 percent Virginia Medicaid inpatient utilization effective July 1, 2015. Third, it will establish supplemental payment for state clinics operated by the Virginia Department of Health (VDH) effective July 1, 2015. A prior public notice was published and a state plan amendment (SPA) was submitted to CMS on August 31, 2015. CMS sent informal questions about the SPA, and DMAS provided responses on 10/23/2015. DMAS received a request for additional information from CMS and provided responses on 2/19/2016.

(06) Institutional Provider Reimbursement Changes: This action will eliminate inflation for inpatient hospital operating, graduate medical education, disproportionate share hospital, and indirect medical education payments in FY16. It will also implement the "hold harmless provision" for nursing facilities that meet the bed capacity and occupancy requirements, reimbursing with the price-based operating rate rather than the transition operating rate for those facilities. A prior public notice was published and a SPA was submitted to CMS on 9/15/2015. CMS sent informal questions about the SPA, and DMAS provided responses on 11/16/2015.

***(07) Supplemental Payments to Medical Schools in Eastern VA:** This action will update the average commercial rate calculation of supplemental payments for physicians affiliated with a publicly funded medical school in Tidewater effective October 1, 2015. A prior public notice was published and a SPA was submitted to CMS on 11/12/2015. CMS submitted informal questions that DMAS answered. CMS then submitted a request for additional information, and DMAS is preparing responses.

(08) MAGI: This action implements Modified Adjusted Gross Income (MAGI) thresholds in the Medicaid program and Children's Health Insurance Program (CHIP) in accordance with federally mandated eligibility determination requirements created under the Affordable Care Act. Multiple state plan amendments were submitted to CMS and approved in November and December, 2013. This final exempt regulation copies the state plan changes into state regulations. The final exempt regulations and Town Hall background document were submitted to the Office of the Attorney General (OAG) on 6/22/15.

***(09) Treatment of Annuities:** This action complies with a federal Deficit Reduction Act, which requires DMAS to treat annuities and income from annuities according to certain rules, for purposes of determining Medicaid eligibility. Regulatory changes were drafted and submitted to the OAG on 9/14/2015. As of 1/27/2016, this regulation is under OAG review.

***(10) Hospital Presumptive Eligibility:** In 2014, DMAS submitted a SPA to CMS to permit certain hospitals to make presumptive eligibility determinations for individuals seeking to be treated at those hospitals. The SPA was approved on July 28, 2015, and DMAS drafted related regulatory changes. These were submitted to the OAG on 10/29/2015. DMAS responded to multiple rounds of inquiries on 11/17/2015; 12/15; 12/17; and 2/29/2016. The OAG certified the action on 3/4/2016, and the package was submitted to the DPB on 3/7/2016.

***(11) Supplemental Payments for Private Hospital Partners:** CMS approved SPAs permitting DMAS to make supplemental payments to private hospital partners, and DMAS has drafted related regulatory changes. These changes were submitted to the OAG on 10/26/2015. On 12/18/2015, this action was withdrawn from OAG review as it represented duplicated efforts. There is a previous regulatory project that contains the same information.

***(12) Property Sales at Less Than Tax-Assessed Value:** This action complies with federal changes by changing the Medicaid eligibility rules that relate to property sales at less than tax-assessed value. Regulatory changes were submitted to the OAG on 11/20/15. The action was OAG certified on 1/4/2016 and then submitted to DPB. DPB sent inquiries back to DMAS on 2/5, and responses were sent back to DPB on 2/9. The regulatory action moved to HHR on 2/10.

(13) Reimbursement Changes for Fee-For-Service Providers and Services that Are Reimbursed on a Cost Basis: CMS approved SPAs so that DMAS reimbursed fee-for service providers, and services based on a cost basis, according to certain requirements. DMAS drafted regulatory changes, which are being reviewed internally before being submitted to the OAG for certification.

***(14) Utilization Review Changes:** DMAS drafted a NOIRA to implement regulatory changes to more accurately reflect current industry standards and trends in the area of utilization review. The regulatory action was submitted to the OAG on 11/2/2015, and comments were received on 11/10. A revised ABD was sent to the OAG on 11/18. A NOIRA was sent to DPB on 11/30, and the regulatory action was moved to HHR on 12/4. The Governor signed the action on 12/11. The NOIRA was published in the Town Hall Register on 1/11/2016, with the comment period in place through 2/10. As of 3/4/2016, the proposed stage regulatory text is under review with the OAG.

***(15) Recovery Audit Contractor:** DMAS drafted a State Plan Amendment to reflect that Virginia will not have a Recovery Audit Contractor (RAC) in place for a limited time while that contract is re-procured. DMAS entered into negotiations with the prior RAC but the negotiations were unsuccessful, and the contractor eventually determined that it would not renew the contract for the option year. The SPA was sent to HHR on 11/25/2015, and subsequently submitted to CMS on 12/4. DMAS received a request for additional information from CMS on 1/20/2016 and provided responses on 1/26.

2014 General Assembly

***(01) Discontinue Coverage for Barbiturates for Duals:** This SPA, effective January 1, 2014, enacts Section 2502 of the Affordable Care Act which amended section 1927(d)(2) of the *Social Security Act*. It excluded from Title XIX coverage for all conditions for barbiturates, by removing barbiturates and agents when used to promote smoking cessation from the list of drugs a state Medicaid program may exclude from coverage or otherwise restrict. The SPA was approved by CMS on 4/23/14. The Fast-Track regulatory package became effective on 10/11/2015. The project has been completed and was closed out on 2/11/2016.

***(02) Supplemental Payments for County-Owned NFs**: This action provides supplemental payments to locality-owned nursing facilities who agree to participate. The SPA was approved by CMS on 12/5/2014, with pending changes to parallel administrative code sections. The OAG certified the regulatory action and submitted it to DPB on 4/28/2015. On 6/7/2015, DPB submitted the action to the Secretary and it is currently still under review.

***(03) Hospital DSH Reduction**: This action affects hospitals and was mandated by Chapter 2 of the *2014 Acts of the Assembly,* Item 301 WWW. The SPA was approved by CMS on 6/2/15 and a fast track regulatory action was submitted to the OAG for review on 7/16/15. DMAS received requests for additional information from the OAG and 9/17/2015; 10/5; 10/7; 1/13/2016. The OAG certified the action on 2/29. The submission is expected to go to DPB on 3/9/2016.

***(04) NF Price Based Reimbursement Methodology**: This action changes the cost-based methodology with the priced based method and was mandated by Chapter 2 of the *2014 Acts of the Assembly,* Item 301 KKK. The SPA was approved by CMS on 5/4/15. Fast Track changes to parallel administrative code sections were approved by the Governor on 2/11/2016. The project has been completed and closed out.

***(05) Hospital APR-DRG Methodology Change**: This action changes the APR-DRG grouper for hospital reimbursement and was mandated by Chapter 2 of the *2014 Acts of the Assembly,* Item 301 VVV. The SPA was approved by CMS on 6/2/15. The parallel administrative code sections were approved by the Governor on 12/11/2015. The action was published on the Registrar on 1/11/2016 and became effective on 2/26/2016.

***(06) Type One Hospital Partners' Supplemental Payments:** This action provides supplemental payments to Type One hospitals (state-owned teaching hospitals) qualifying partners and was mandated by Chapter 2 of the *2014 Acts of the Assembly,* Item 301 DDDD. The SPA was approved by CMS on 1/27/2015. The VAC action was signed by the Governor on 11/13/2015 and will be published in the Register on 12/14/2015. The regulations became effective on 1/29/2016. This project has been completed and was closed out on 2/1/2016.

(07) GAP SMI Demonstration Waiver Program: The agency began work designing this new non-Medicaid program in early September in response to the Governor's directive. It provides a package of limited benefits to individuals who are 21 to 64 years old, uninsured, and residents of the Commonwealth. Some of the benefits are: physician, clinic, diagnostic

outpatient procedures for both medical health conditions and behavioral health conditions related to diagnoses of serious mental illness. CMS approved the program in December, 2014. The emergency regulation action became effective 1/1/2015. The General Assembly proposed changes to this program in the 2015 budget and DMAS drafted a revised emergency regulation to incorporate these changes, which became final on 6/24/15. The proposed stage regulation, which will incorporate the changes from both emergency regulations, was submitted to the OAG for review on 11/16/2015.

***(08) HIV Premium Assistance Program**: The agency published a notice of periodic review for this small program and is initiating a rule making action. The changes to be made are: (i) individuals will no longer have to be unable to work; (ii) income considered during the eligibility determination process will be that of only the individual and spouse (rather than family), and; (iii) liquid countable assets is being expanded to include more types beyond the limited list in the regulations. The agency drafted a Fast Track action for the VAC changes, which became effective on 10/22/15. No SPA is required. This project has been completed and was closed out on 10/22/15.

***(09) GAP FAMIS Coverage of Children of State Employees**: The agency began work developing this FAMIS expansion in early September in response to the Governor's directive. It provides FAMIS coverage for the children of state employees who have low incomes. The emergency regulation became effective 1/1/2015. The permanent, proposed stage regulation was published in the Register on 11/30/2015 with a public comment period through 1/29/2016. The regulatory action was submitted to DPB and HHR on 2/19/2016.

***(10) GAP Dental Services for Pregnant Women**: The agency began work developing this Medicaid service expansion in early September 2014 in response to the Governor's directive. It provides complete, with the exception of orthodontia, dental service coverage to the 45,000 Medicaid-eligible pregnant women. The emergency regulation became effective on 3/1/2015 and CMS approved the SPA on 5/18/2015. The permanent replacement regulation was signed by the Governor on 11/13/2015. It was published in the Register on 12/14/2015 and a comment period was in effect through 2/12/2016. This regulatory action is in Final Stage status and the recommended VAC changes are being reviewed internally.

***(11) MEDICAID WORKS**: This action is tied to item (02) in the 2011 General Assembly section below. As a result of CMS approval of the agency's SPA for the 2011 action, the agency modified the VAC to maintain the parallel contents between the Plan and VAC. A Fast Track action was published on the Register on 11/2/2015 and became effective on 12/16/2015. This project has been completed and closed out.

***(12) Mandatory Managed Care (Medallion 3.0) Changes**: This emergency regulation action requires individuals who receive personal care services via the Elderly or Disabled with Consumer Direction waiver to obtain their acute care services through managed care. It also shortens the time period for pregnant women to select their managed care organizations and complete the MCO assignment process. This emergency regulation became effective on 1/1/2015. The permanent replacement regulation was signed by the Governor on 11/13/2015. It was published in the Register on 12/14/2015 with a comment period that was in effect

through 2/12/2016. This regulatory action is in Final Stage status and the recommended VAC changes are being reviewed internally.

***(13) MFP First Month's Rent**: This Fast Track action permits the coverage of the first month's rent for individuals who qualify for assistance from Money Follows the Person assistance as they leave institutions and move into their communities. This is permitted by federal law and has been requested by community advocates. The VAC action became effective on 1/1/2016. This regulatory project has been completed and closed out.

2013 General Assembly

***(01) Targeted Case Management for Baby Care, MH, ID, and DD:** This SPA incorporates the reimbursement methodology for targeted case management for high risk pregnant women and infants up to age 2, for seriously mentally ill adults, emotional disturbed children or for youth at risk of serious emotional disturbance, for individuals with intellectual disability and for individuals with developmental disability. The SPA package was approved by CMS 12/19/13. The final-exempt VAC package was submitted to the OAG on 11/12/2015. DMAS received a request for additional information from the OAG and provided responses on 2/23/2016.

***(02) Consumer Directed Services Facilitators:** This Emergency/NOIRA complies with the *2012 Acts of the Assembly* Item 307 XXX that directed the DMAS to strengthen the qualifications and responsibilities of the Consumer Directed Service Facilitator to ensure the health, safety and welfare of Medicaid home-and-community-based waiver enrollees. This regulatory package was certified by the OAG on 11/2/2015 and was signed by the Governor on 11/30/2015. Emergency regulations were published in the Register on 1/11/16, with NOIRA comment period from 1/11thru 2/10. This regulatory action is in Proposed Stage status and was circulated for internal DMAS review on 2/24/2016. No SPA action is required.

***(03) Exceptional Rate for ID Waiver Individuals:** This Emergency/NOIRA enables providers of congregate residential support services, currently covered in the Individual with Intellectual Disabilities Waiver (ID waiver), to render, in a more fiscally sound manner, services to individuals who have complex medical and behavioral care needs. Some of these individuals have long been institutionalized in the Commonwealth's training centers, and are being moved into community settings over the next several years in response to the settlement of the lawsuit brought against the Commonwealth by the Department of Justice. For providers to render services for such individuals, it is requiring substantially more staff time and skills. This regulatory action has been approved by the Governor and was submitted to the Registrar for publication on 11/13/14. The waiver change was approved by CMS on 4/23/2014. An emergency regulation is effective until 5/1/16. The proposed stage regulation was published in the Register on 11/16/2015 with a public comment period through 1/15/2016. This regulatory action is in Final Stage status and is circulating through internal DMAS review as of 3/1/2016.

***(04) Cost Report Submission; Credit Balance Reporting**: This Fast-Track modifies the Nursing Facility (NF) reimbursement methodology in two areas: (i) makes a technical

correction to an incorporation by reference included in NF cost reporting requirements, and; (ii) updates NF credit balance reporting requirements to reflect more current Medicaid policies. This regulation was published in the Virginia Register on 11/16/2015 and became effective on 1/1/2016. A SPA of affected parallel State Plan sections was drafted and submitted to CMS on 12/4/15.

(05) Changes to Institutions for Mental Disease (IMD) Reimbursement: This Emergency/NOIRA is the result of the 2012 *Acts of the Assembly*, Chapter 3, Item 307 CCC, which directed DMAS to develop a prospective payment methodology to reimburse institutions of mental disease (residential treatment centers and freestanding psychiatric hospitals) for services furnished by the facility and by others. The SPA was approved on 6/2/15. This Emergency regulation became effective 7/1/14. The permanent replacement regulation is awaiting OAG certification.

***(06) Medicare-Medicaid Alignment Demonstration (FAD)/Commonwealth Coordinated Care (CCC):** This SPA is being implemented by CMS to streamline service delivery, improve health outcomes, and enhance the quality of life for dual eligible individuals and their families. Under the Demonstration's capitated model, DMAS, CMS, and selected managed care organizations (MCOs) have entered into three-way contracts through which the MCOs receive blended capitated payments for the full continuum of covered Medicare and Medicaid benefits provided to dual eligible individuals, including Medicaid-covered long term services and supports and behavioral health care services. The participating MCOs will cover, at a minimum, all services currently covered by Medicare, Medicaid wrap-around services, nursing facility services, Medicaid-covered behavioral health services, home and community-based long-term services and supports provided under the Medicaid Elderly or Disabled with Consumer Direction (EDCD) Waiver. Robust care coordination, interdisciplinary care teams, and person-centered care plans are also mandatory services that must be provided through the participating MCOs. Virginia plans to offer the Demonstration from January 1, 2014, through December 31, 2016. This SPA was submitted to CMS 3/28/13 and was approved by CMS 6/12/13. The Emergency regulation took effect 12/10/2014. The proposed stage action of the permanent regulation was submitted to the OAG on 12/21/2015.

***(07) Repeal Family Planning Waiver Regulations:** The Family Planning program is a benefit to qualified low income families by providing them with the means for obtaining medical family planning services to avoid unintended pregnancies and increase the spacing between births to help promote healthier mothers and infants. The purpose of this amended regulation is to implement the change of the program from a demonstration waiver to the state plan option to be in compliance with the state plan amendment approved by the Centers for Medicare and Medicaid Services (CMS) on September 22, 2011. This action had been placed hold, but has since been re-activated and the proposed stage was submitted to the OAG on 9/14/2015. The action was certified by OAG on 12/11/2015; submitted to DPB; and subsequently sent to HHR on 1/28/2016.

2012 General Assembly

***(01) EPSDT Behavioral Therapy Services:** The NOIRA action promoted an improved quality of Medicaid-covered behavioral therapy services provided to children and adolescents who may have autism spectrum disorders and similar developmental disorders. The proposed changes will differentiate Medicaid's coverage of behavioral therapy services, including applied behavior analysis, from coverage of community mental health and other developmental services and establish provider qualifications and clear criteria for Medicaid payment. This regulatory package was approved by DPB 11/27/12 and submitted to the Registrar's office 12/12/12 for publication in the *Virginia Register* 1/14/13 and the comment period ended 2/13/13. The proposed stage regulation was reviewed by the Governor's office, which asked that it be revised to account for Board of Medicine regulations that now govern the providers of behavioral therapy services. After closing out the previous project, DMAS has revised the regulations and they are circulating internally, as a new proposed stage action, before being submitted to the OAG.

***(02) Mental Health Skill-Building Services:** The Emergency/NOIRA complied with the *2012 Acts of the Assembly*, Chapter 3, Item 307 LL that directed programmatic changes to Community Mental Health services to consider all available options including, but not limited to, prior authorization, utilization review and provider qualifications. The *2012 Acts of Assembly,* Chapter 3, Item 307 RR (f) directed DMAS to implement a mandatory care coordination model for Behavioral Health. The goals of Item 307 RR (e) include the achievement of cost savings and simplification of the administration of Community Mental Health Services. Emergency regulations became effective 10/10/13. DMAS received an extension, and the ER will last until 10/19/15. The proposed stage public comment period closed on 10/23/2015 and DMAS submitted final stage documents to the OAG on 2/12/2016.

***(03) Appeals Regulations Update**: This Emergency/NOIRA regulatory action complied with the legislative mandate (Item 307, III of the *2012 Acts of Assembly*) and addressed recent case law and administrative decisions. These actions have created the need to clarify existing appeals processes and codify emerging processes made urgent by court and administrative case decisions and the increasing volume of appeals generated by provider audits and other utilization review mandates. The SPA was approved by CMS 12/12/12. DMAS received an extension of the emergency regulation, and it was in effect from 1/1/14-12/30/15. The Governor signed the proposed stage regulation and a public comment period opened on 11/2/2015. The final stage regulation has been drafted and is circulating internally for review prior to submission to the Office of the Attorney General (OAG).

2011 General Assembly

***(01) Inpatient and Outpatient Rehabilitation Update:** This Fast-Track action resulted from internal agency review. DMAS updated its regulations for both inpatient and outpatient rehabilitation services, including services provided in Comprehensive Outpatient Rehabilitation Facilities (CORFs). In addition, several sections of regulations in Chapter 130 were repealed and some of the retained requirements formerly located in that Chapter were moved to Chapters 50 and 60. Outdated, duplicative, and unnecessary regulatory requirements

in Chapter 130 were repealed. This regulatory package was published in the Register on 11/16/2015 and became effective on 1/1/2016. A corresponding state plan amendment containing affected parallel regulatory changes was circulated for internal DMAS review on 2/29/2016, prior to OAG submission.

***(02) Client Medical Management (CMM):** The Emergency/NOIRA action was designed to assist and educate beneficiaries in appropriately using medical and pharmacy services. Members who use these services excessively or inappropriately, as determined by DMAS, may be assigned to a single physician and/or pharmacy provider. DMAS received an extension of the emergency regulation, which is effective 12/16/13 to 12/15/2015. The fast-track stage was published in the Register on 10/19/2015 and became effective on 12/3/2015. This regulatory project has been completed and closed out.

***(03) 2011 Exceptions to Personal Care Limit:** This action complied with the legislative mandate to develop and implement exception criteria for those individuals who require more than 56 hours per week of personal care services (which includes supervision time). The final stage documents were signed by the Governor on 11/6/2015. They were published in the Register on 11/30/2015 and became effective on 12/20/2015. This regulatory project has been completed and closed out.

2010 General Assembly

***(01) Mental Health Services Program Changes to Ensure Appropriate Utilization and Provider Qualifications:** This Emergency/NOIRA action complied with the 2010 Appropriations Act that required DMAS to make programmatic changes in the provision of Intensive In-Home services and Community Mental Health services in order to ensure appropriate utilization and cost efficiency. The final regulations became effective 1/30/2015. A SPA was submitted to CMS on 3/25/15. CMS sent a Request for Additional Information on 6/10/2015 and DMAS submitted responses. During a subsequent conference call with CMS, on 10/20/2015, DMAS took this project off the clock in order to prepare additional changes requested by CMS. DMAS resubmitted SPA changes to CMS on 3/1/2016.

Items that have completed both their state regulatory process and their federal approval process, if a federal approval process was necessary, have been dropped off of this report.