Virginia Regulatory Town Hall

Proposed Regulation
Agency Background Document

Agency Name:	12 VAC 30, Dept. of Medical Assistance Services
VAC Chapter Number:	Chapters 70 and 80
Regulation Title:	Methods and Standards for Establishing Payment Rates-Inpatient Hospital Services and Other Types of Care
Action Title:	GME; Outpatient Hospital Reimbursement
Date:	9/26/2002; NEED GOV'S APPROVAL BY 12/15/2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99)**,** and the *Virginia Register Form,Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This suggested regulatory action affects two changes: outpatient hospital reimbursement and Direct Graduate Medical Education.

OUTPATIENT HOSPITAL REIMBURSEMENT

This action amends the Title XIX State Plan for Medical Assistance to continue to reimburse outpatient hospital services using Medicare principles of cost reimbursement that were in effect as of June 30, 2000. This action is necessary because the Medicare program changed its hospital outpatient reimbursement methodology to Ambulatory Payment Classifications (APCs) effective August 1, 2000, necessitating the removal of the link from DMAS' regulations requiring DMAS to automatically follow Medicare's lead with the use of the APC payment methodology.

DIRECT GRADUATE MEDICAL EDUCATION

This action also amends the Title XIX State Plan for Medical Assistance to revise the means of payment to certain hospital providers for direct Graduate Medical Education (GME) costs. This change is needed in order to provide appropriate Medicaid reimbursement of GME costs at several teaching hospitals.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 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.

OUTPATIENT HOSPITAL REIMBURSEMENT

These provisions on Medicare hospital outpatient reimbursement are codified in Sec. 1833(t) of the *Social Security Act*, and were directed by the Balanced Budget Act of 1997 section 4523.

DIRECT GRADUATE MEDICAL EDUCATION

The Medicaid authority, as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a], provides governing authority for payments for services. The Medicare authority for direct graduate medical education is the *Social Security Act* §1886(h) and as set forth in 42 *Code of Federal Regulations* § 413.86.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

These proposed regulations are not necessary to protect the health, safety, or welfare of the citizens of the Commonwealth. Both of these proposed changes affect the reimbursement methodologies for inpatient and outpatient hospital services.

OUTPATIENT HOSPITAL REIMBURSEMENT

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DIRECT GRADUATE MEDICAL EDUCATION

This action also amends the Title XIX State Plan for Medical Assistance to revise the means of payment to certain hospital providers for direct Graduate Medical Education (GME) costs. This change is needed in order to provide appropriate Medicaid reimbursement of GME costs at several teaching hospitals.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The regulatory action applicable to hospital outpatient reimbursement affects the Methods and Standards for Establishing Payment Rates-Other Types of Care: Services Reimbursed on a Cost Basis (Attachment 4.19-B of the State Plan for Medical Assistance (12VAC 30-80-20)). The regulatory action applicable to inpatient and outpatient hospital Direct Graduate Medical Education (GME) costs revises the regulation section for payment for direct medical education costs (Attachment 4.19-A (12VAC 30-70-281) and Attachment 4.19-B (12 VAC 30-80-20).

OUTPATIENT HOSPITAL REIMBURSEMENT

Currently, Medicaid reimburses outpatient hospital services at 100% of the reasonable costs less a 10% reduction for capital costs and a 5.8% reduction for operating costs. This is the same payment methodology used by Medicare prior to August 1, 2000.

Effective August 1, 2000, the Medicare program changed its outpatient hospital reimbursement methodology to Ambulatory Payment Classifications (APC). The APC methodology for outpatient services parallels the Diagnosis Related Groups methodology developed by Medicare for inpatient hospital services. This methodology serves as a way to classify patients, and thereby bill for services rendered, in a systematic, relative manner.

DIRECT GRADUATE MEDICAL EDUCATION

Currently, Medicaid reimburses hospitals for direct medical education costs on an allowable cost basis. Payments for direct medical education costs are made in estimated quarterly lump sum amounts and settled at the hospital's fiscal year end. Final payment for direct medical education costs is based retrospectively on the ratio of Medicaid inpatient and outpatient costs to total allowable costs.

The hospitals that will be affected by this change are those organizations that operate graduate medical education programs for interns and residents. GME costs will be reimbursed prospectively based on a per-resident amount of Medicaid-reimbursable GME costs determined for the base year ended in State Fiscal Year 1998 (base year).

As proposed, the reimbursement of GME-related costs will be made on a prospective basis, based on the affected hospitals' GME costs incurred in the base year. This amount will be converted to a per-resident amount for the base period. This per-resident amount will be updated annually by the DRI-Virginia moving average values published by DRI•WEFA, Inc. The

updated per-resident amount for each hospital will be multiplied by the full-time resident equivalents reported on the most recent cost report to determine the amount of Medicaid allowable GME costs for that cost reporting period.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

OUTPATIENT HOSPITAL REIMBURSEMENT

With the implementation of APCs by Medicare, the 10% reduction for capital costs and the 5.8% reduction to operating costs, previously utilized by Medicare and historically relied upon by DMAS, no longer exists. If DMAS were to convert to the new Medicare APC methodology, it would require significant, costly changes to the computerized claims processing system (Medicaid Management Information System) and more General Fund appropriations than required by the old system. Therefore, since the capital and operating cost reductions are no longer used under Medicare's current payment regulations, the Department intends to retain the previous Medicare payment methodology in effect before August 1, 2000.

This change saves General Fund dollars for the Commonwealth and causes no disadvantages for the public. If DMAS were to continue to follow the Medicare trend to the use of APCs, it would result in the payment of an additional $4.6 million in payments to affected outpatient hospitals.

DIRECT GRADUATE MEDICAL EDUCATION

Recent revisions to Medicare cost reporting standards require certain teaching hospitals to accumulate and report costs and charges in such a manner that dilutes the ratio of Medicaid charges and costs to total charges and costs. This change would result in an inappropriate reduction in the apportionment of Graduate Medical Education (GME) costs related to interns and residents to be reimbursed by Medicaid. The conversion to the proposed prospective method will allow these affected state-operated teaching hospitals to retain a more appropriate level of Medicaid reimbursement for GME related costs.

This change has no disadvantage to the public. It constitutes a big advantage for those hospitals that conduct teaching programs to be reimbursed at more appropriate levels for these training expenses.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

OUTPATIENT HOSPITAL REIMBURSEMENT

Approximately 101 enrolled hospitals will be affected by this change. Because the Department is not changing the payment methodology, there will be no fiscal impact and this action is budget neutral. If DMAS were to adopt the new Medicare APCs methodology, it would require an additional $4.6 million in General Funds to reimburse for outpatient hospital services.

DIRECT GRADUATE MEDICAL EDUCATION

Converting the direct Graduate Medical Education reimbursement to the prospective method will allow the approximately 32 affected teaching hospitals to retain their present level of Medicaid reimbursement of GME costs, or approximately $15.5 million for all affected providers and especially $2.0 million for the University of Virginia Hospital System. Failure to implement this change will result in either the absorption of the $2.0 million loss by UVA or payment with 100% General Fund dollars. Making this change in the Medicaid State Plan enables the Commonwealth to claim federal matching dollars for this change thereby reducing the state budget impact.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

VAC Section	Emergency Reg	Proposed Reg	Final Reg

12 VAC 30-80-20D2c	10% reduction for capital costs; 5.8% reduction for operating costs	10% reduction for capital costs; 5.8% reduction for operating costs	
12 VAC 30-80-20D2d	Prospective, allowable cost per-resident basis	Prospective, allowable cost per-resident basis	
12 VAC 30-70-221B6	Establishes quarterly, prospective payments based on per-resident costs contained in cost reports.	Establishes quarterly, prospective payments based on per-resident costs contained in cost reports.	
12 VAC 30-70-281	Establishes methodology for calculating GME reimbursement.	Establishes methodology for calculating GME reimbursement.	
12 VAC 30-70-351	Technical update to name of publisher.	Technical update to name of publisher.	

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

OUTPATIENT HOSPITAL REIMBURSEMENT

Following the Medicare conversion to the use of the APC methodology would require costly MMIS system changes. Such changes at this time would also conflict with long term computer system updating project which is due to go into testing phase before this year's end. Retaining the Medicare principles of reimbursement for hospital outpatient services in effect prior to August 1, 2000, is the most reasonable alternative policy. It will not require any implementation costs or computer system changes and will not require increased staffing or other resources to maintain.

DIRECT GRADUATE MEDICAL EDUCATION

Conversion to the proposed prospective reimbursement method of direct Graduate Medical Education costs based on a per-resident amount is the more appropriate alternative policy as only

minor systems changes are needed and no increased staffing or other resources are required. As noted above, this conversion to the proposed prospective method of reimbursement of Graduate Medical Education costs will allow the State teaching hospitals to retain a more appropriate level of Medicaid reimbursement for GME related costs. The proposed methodology will not adversely effect other hospitals.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

The agency did not receive any public comments during the NOIRA comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency has examined the regulation and relevant public comments and has determined that the regulation, though highly technical and complex, is clearly written and understandable by the affected entities.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

DMAS will include the monitoring, in collaboration with the affected industry, of this regulatory action as part of its ongoing management of State Plan policies and its Executive Order 21(02) activities.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself,

one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action will not have any negative effects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities.