



Virginia
Regulatory
Town Hall

Emergency Regulation Agency Background Document

Agency Name:	Dept. of Medical Assistance Services; 12 VAC 30
VAC Chapter Number:	12 VAC 30-50
Regulation Title:	Methods of Providing Transportation
Action Title:	Coverage of Stretcher Vans
Date:	GOV ACTION NEEDED BEFORE 6/27

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

This regulatory action qualifies as an emergency, pursuant to the authority of the *Code of Virginia*, 1950 as amended, § 2.2-4011, because it is responding to a mandate in the 2003 Virginia Appropriations Act (Item 322I as passed by the 2003 General Assembly) that must be effective within 280 days from the date of its enactment and this regulatory action is not otherwise exempt under the provisions of the *Code* § 2.2-4006.

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency 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 DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements.

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.

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

The section of the State Plan for Medical Assistance affected by this action is Methods of Providing Transportation, [Attachment 3.1-D (12 VAC 30-50-530)]. The regulation affected by this emergency regulation is 12 VAC 30-50-530.

The Virginia Medicaid transportation broker currently provides non-emergency trips by ambulance, wheelchair van, or taxi, based on the recipient's medical and physical condition. The use of an ambulance for non-emergency transportation is restricted to those clients who must be transported by stretcher because they are non-ambulatory and cannot use a wheelchair. The DMAS Transportation Manual states, "*These are recipients who are confined to a bed before and after transportation. These recipients are severely ill or injured and would be unable to travel by any other means.*" (Chapter IV, page 2) Wheelchair vans are used when the client is non-ambulatory but can be transported while seated in a wheelchair.

Stretcher van service is not intended to provide medical monitoring, aid, care, or treatment during transport. The vehicle is ordinarily staffed by only a driver and an escort. A stretcher van is typically used when a recipient

- Needs routine transportation to or from a non-emergency medical appointment or service;
- Is convalescent or otherwise non-ambulatory and not able to use a wheelchair; and
- Does not require medical monitoring, medical aid, medical care, or medical treatment during transport.

The General Assembly mandated that DMAS add stretcher van service as an allowable mode of non-emergency transportation and authorized DMAS to promulgate the regulations necessary to provide this coverage. In discussions with the contract transportation broker and members of the VA Ambulance Association, estimates have been made that 75% of non-emergency ambulance trips could be made in stretcher vans. In FY 01, transportation brokers reported 64,463 ambulance trips authorized statewide at a cost of \$6,172,530. The estimated savings, depending on stretcher van rates, ranges from \$2 to \$5 million per year.

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

The Agency was not permitted any alternative policies due to the legislative mandate.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the 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.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or 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. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.