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Exempt Action Final Regulation Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation(s)	12 VAC 30-70-351; 12 VAC 30-80-20; 12 VAC 30-80-30; 12 VAC 30-80-36
Regulation title(s)	Methods and Standards for Establishing Payment Rates – Inpatient Hospital Services; Methods and Standards for Establishing Payment Rates; Other Types of Care
Action title	CHKD Hospital Inflation, FFS Providers, & Reimbursement Services on a Cost Basis
Final agency action date	6/7/2018
Date this document prepared	6/7/2018

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This action proposes updates to 12 VAC 30-70-351 and 12 VAC 30-80-36: Methods and Standards for Establishing Payment Rates; Inpatient Hospital Services and Methods and Standard for Establishing Payment Rates; Other Types of Care.

The methodology for hospital reimbursement includes an annual inflation adjustment. In state fiscal year 2017, the inflation adjustment was 50% of inflation and in state fiscal year 2018, the

inflation adjustment was eliminated. This action proposes an update which will allow an exception of 100% inflation for the Children’s Hospital of the King’s Daughters (CHKD) in both FY2017 and FY2018.

The changes contained in 12 VAC 30-80-20 and 12 VAC 30-80-30 are minor technical changes incorporating language into regulations that CMS has approved in State Plan amendments in order to provide more clarity.

Statement of final agency action

Please 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.

I hereby approve the foregoing Agency Background Summary with the attached amended regulations (action name (12 VAC 30-70-351, 12 VAC 30-80-20, 12 VAC 30-80-30, 12 VAC 30-80-36) and adopt the action stated therein. I certify that this final exempt regulatory action has completed all the requirements of the Code of Virginia § 2.2-4006(A), of the Administrative Process Act.

6/7/2018

/Jennifer S. Lee, M.D.

Date

Jennifer S. Lee, M.D., Director

Dept. of Medical Assistance Services

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

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.

In addition, authority for these changes are provided in the 2018 *Acts of Assembly*, Chapter 1, Item 306.GGGG which states:

“...The department shall make a full inflation adjustment payment in both FY 2017 and FY 2018 to Virginia freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009. The department shall have the authority to implement these reimbursement changes effective July 1, 2016 and prior to the completion of any regulatory process in order to effect such changes.”

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the “Detail of changes” section.) Please be sure to define any acronyms.

Currently, the methodology for hospital reimbursement includes an inflation adjustment. In state fiscal year 2017, the inflation adjustment was 50% of inflation and the inflation adjustment was eliminated in state fiscal year 2018. This modification to the inflation adjustment will provide an exception of 100% of inflation for Virginia freestanding children’s hospitals with greater than 50% Medicaid utilization in 2009. This update has been applied to both inpatient hospitalization (12 VAC 30-70-351) and outpatient hospitalization (12 VAC 30-80-36).

The minor updates in 12 VAC 30-80-20 have been made to provide additional information regarding the specific cost report as well as the review and reconciliation timeline associated with the cost reports. These clarifications were required by CMS and updated in the State Plan and are being updated in the regulation to ensure uniformity.

The language in 12 VAC 30-80-36 has been added to match language to the State Plan that clarifies that state-developed fee schedule rates shall be the same for both governmental and private practitioners (unless otherwise noted) and the location (website) where rates and any changes to the rates are published by DMAS.

Family Impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; nor 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 and does not increase or decrease disposable family income.