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MEMORANDUM

TO: Emily McClellan
Department of Medical Assistance Services

FROM: Abrar Azamuddin 
Assistant Attorney General

DATE: January 25, 2019

SUBJECT: Fast Track Regulations Removing Third Trimester Managed Care
Exclusion, 12 VAC 30-141-880

I have reviewed the attached proposed regulations, which would remove the third trimester managed care exclusion for FAMIS recipients. Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Virginia Code § 32.1-324, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

Please be aware that this review is based solely upon whether DMAS has the legal authority to promulgate these regulations, not the appropriateness of whether it should be promulgated pursuant to the fast track process. Pursuant to Virginia Code § 2.2-4012.1, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either House of the General Assembly or of the Joint Commission on Administrative Rules, the Department of Medical Assistance Services shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the fast-track regulations serving as the Notice of Intended Regulatory Action.

If you have any questions or need any additional information, please feel free to call me at 786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General



Logged in as

Abrar Azamuddin

Proposed Text

Action: FAMIS MOMS - Remove Third Trimester Managed Care Exclusion**Stage:** Fast-Track

10/29/18 2:34 PM [latest] ▼

12VAC30-141-880. Assignment to managed care.

A. All eligible enrollees shall be assigned in managed care through the department or the central processing unit (CPU) under contract to DMAS. FAMIS MOMS individuals, during the preassignment period to an MCHIP, shall receive Medicaid-like benefits via fee-for-service utilizing a FAMIS MOMS card issued by DMAS. After assignment to an MCHIP, benefits and the delivery of benefits shall be administered specific to the managed care program in which the individual is enrolled.

1. MCHIPs shall be offered to enrollees in all areas.
2. All enrollees shall be assigned to that contracted MCHIP.
3. Enrollees shall be assigned through a random system algorithm.
4. Enrolled individuals will receive a letter indicating that they may select one of the contracted MCHIPs that serve such area. Enrollees who do not select an MCHIP as described above, shall be assigned to an MCHIP as described in subdivision 3 of this subsection.
5. Individuals assigned to an MCHIP who lose and then regain eligibility for FAMIS MOMS within 60 days will be reassigned to their previous MCHIP.

B. Following their initial assignment to an MCHIP, those enrollees shall be restricted to that MCHIP until their next annual eligibility redetermination, unless appropriately disenrolled by the department.

1. During the first 90 calendar days of managed care assignment, an enrollee may request reassignment for any reason from that MCHIP to another MCHIP serving that geographic area. Such reassignment shall be effective no later than the first day of the second month after the month in which the enrollee requests reassignment.
2. After the first 90 calendar days of the assignment period, the enrollee may only be reassigned from one MCHIP to another MCHIP upon determination by DMAS that good cause exists pursuant to subsection C of this section.

C. Disenrollment for good cause may be requested at any time.

1. After the first 90 days of assignment in managed care, enrollees may request disenrollment from DMAS based on good cause. The request must be made in writing to DMAS and cite the reasons why the enrollee wishes to be reassigned. The department shall establish procedures for good cause reassignment through written policy directives.
2. DMAS shall determine whether good cause exists for reassignment.

~~D. Exclusion for assignment to a MCHIP. The following individuals shall be excluded from assignment to a MCHIP. Newly eligible individuals who are in the third trimester of pregnancy and who request exclusion within a department-specified time frame of the effective date of their MCHIP enrollment. Exclusion may be granted only if the member's obstetrical provider (physician or hospital) does not participate with the enrollee's assigned MCHIP. Exclusion requests made during the third trimester may be made by the enrollee, MCHIP, or provider. DMAS shall determine if the request meets the criteria for exclusion.~~