



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Jay Jones
Attorney General

202 North 9th Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120

TO: SYREETA B. STEWART
Regulations and Guidance Documents Supervisor
Department of Medical Assistance Services

FROM: JENNIFER L. GOBBLE
Senior Assistant Attorney General

DATE: September 2, 2026

SUBJECT: Fast-Track Regulations: 90-Day Prescriptions (Action 5681 / Stage 9201)

I have reviewed the above-referenced fast-track regulatory action amending existing regulations to reflect current policy that permits coverage for select maintenance drugs for up to 90 days for Medicaid members.

The Code of Virginia § 32.1-325 provides the Board of Medical Assistance Services with authority to amend the State Plan for Medical Assistance. The Code of Virginia § 32.1-324 provides that the Director of the Department of Medical Assistance Services shall be vested with the authority of the Board when it is not in session. The Director previously filed a State Plan Amendment and received approval from the Centers for Medicare and Medicaid Services to make the changes reflected in this regulatory action.

Based on my review, it is this Office's view that the Director of the Department of Medical Assistance Services, acting on behalf of the Board of Medical Assistance Services pursuant to Virginia Code § 32.1-324, has the authority to amend these regulations, subject to compliance with the provisions of Article 2 of the Virginia 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 amend these regulations, not the appropriateness of whether they should be amended 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 agency 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 with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you have any questions or need any additional information about this regulatory action, please contact me at 804-786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General/Section Chief

###