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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department of Medical Assistance Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC30-50, 12VAC30-80
<b>VAC Chapter title(s)</b>	Amount, Duration, and Scope of Medical and Remedial Care Services; Methods and Standards for Establishing Payment Rate; Other Types of Care
<b>Action title</b>	Brain Injury Services Targeted Case Management
<b>Date this document prepared</b>	August 19, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

This action will allow the Department of Medical Assistance Services (DMAS) to add coverage for targeted case management for individuals with severe brain injuries, pursuant to House Bill 680 of the 2022 General Assembly. DMAS submitted state plan amendments to the Centers for Medicare & Medicaid Services (CMS) that were approved on November 22, 2023, and May 17, 2024, and this regulatory action will incorporate those same changes in the Virginia Administrative Code.

## Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

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BIS = Brain Injury Services

DMAS = Department of Medical Assistance Services

TCM = Targeted Case Management

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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House Bill 680 of the 2022 General Assembly required DMAS to add coverage for targeted case management for individuals with severe brain injuries.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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The Code of Virginia § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance and to promulgate regulations. The Code of Virginia § 32.1-324, grants the Director of the Department of Medical Assistance Services the authority of the Board when it is not in session.

House Bill 680 of the 2022 General Assembly required DMAS to add coverage for targeted case management for individuals with severe brain injuries.

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The purpose of this action is to add coverage for targeted case management for individuals with severe brain injuries in accordance with House Bill 680 of the 2022 General Assembly. This regulatory action is essential to protect the health, safety, and welfare of Medicaid members who demonstrate the need for these case management services because they help individuals with

severe brain injuries and their family members in accessing necessary medical, social, educational and other services essential to meeting the individual’s recovery goals.

There are no potential issues that need to be addressed as the regulation is developed.

**Substance**

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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A new Section numbered 492 would be added to 12VAC30-50 to establish requirements for the coverage of Brain Injury Services Case Management services. Modifications would also be made to 12VAC-30-80 to establish reimbursement requirements for these services.

**Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

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No alternative methods will accomplish the objectives of the House Bill 680 which allows DMAS to add coverage for targeted case management for individuals with severe brain injuries.

**Periodic Review and Small Business Impact Review Announcement**

This NOIRA is not being used to announce a periodic review or a small business impact review.

**Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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DMAS is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at:

<https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Meredith Lee, DMAS, 600 E. Broad Street, Richmond, VA 23219, 804-371-0552, or [Meredith.Lee@dmas.virginia.gov](mailto:Meredith.Lee@dmas.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.