



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

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**MEMORANDUM**

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

**FROM: MORGAN GREER**  
Senior Assistant Attorney General

**DATE: June 12, 2026**

**SUBJECT: Fast Track Regulations – Pharmacy and Therapeutics Committee Increase**

I have reviewed the attached fast-track regulations regarding amendments to the Virginia Administrative Code to reflect the requirements contained in the 2025 Appropriation Act, Item 288.CC.2.a.

Based on my review, it is my view that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Virginia Code §§ 32.1-324 and 325, has the authority to amend these regulations subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. The proposed regulations appear to be consistent with the provisions of the 2025 Appropriation Act, Item 288.CC.2.a.

Pursuant to Va. 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, DMAS 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 additional information about this action, please contact me at 804.786.6522.

cc: Kim F. Piner, Esquire

Attachment

## **12VAC30-130-1000 Pharmacy services prior authorization**

A. Definitions. The following words and terms used in this part shall have the following meanings unless the context clearly indicates otherwise:

"Contractor" means an independent contractor that implements and administers, pursuant to its contract, the department's pharmacy prior authorization programs as set out in the Title XIX State Plan.

"Grandfather clause" means procedure by which selected therapeutic classes or drugs as designated by the P&T Committee may be automatically approved if the patient is currently and appropriately receiving the drug.

"Pharmacy and Therapeutics Committee," "P&T Committee" or "committee" means the committee formulated to review therapeutic classes, conduct clinical reviews of specific drugs, recommend additions or deletions to the preferred drug list, and perform other functions as required by the department. The Pharmacy and Therapeutics Committee shall be composed of eight to ~~42~~ 16 members, including the Commissioner of the ~~Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Behavioral Health and Developmental Services,~~ Department of Behavioral Health and Developmental Services, or his designee. Other members shall be selected or approved by the department and shall include one physician from each contracted managed care organization. The membership shall include a ratio of physicians to pharmacists of 2:1. Physicians on the committee shall be licensed in Virginia, one of whom shall be a psychiatrist, and one of whom specializes in care for the aging. Pharmacists on the committee shall be licensed in Virginia, one of whom shall have clinical expertise in mental health drugs, and one of whom has clinical expertise in community-based mental health treatment.

B. DMAS shall operate, in conjunction with the Title XIX State Plan for Medical Assistance (12VAC30-50-210 et seq.), a program of prior authorization of pharmacy services. This program shall include, but not necessarily be limited to, the use of a preferred drug list.

C. Medicaid Pharmacy and Therapeutics Committee.

1. The department shall utilize a Pharmacy and Therapeutics Committee to assist in the development and ongoing administration of the preferred drug list and other pharmacy program issues. The committee may adopt bylaws that set out its make up and functioning. A quorum for action of the committee shall consist of seven members.

2. Vacancies on the committee shall be filled in the same manner as original appointments. The department shall appoint individuals for the committee that assures a cross-section of the physician and pharmacy community.

3. Duties of the committee.

a. The committee shall receive and review clinical and pricing data related to the drug classes. The committee's medical and pharmacy experts shall make recommendations to DMAS regarding various aspects of the pharmacy program. For the PDL program, the committee shall select those drugs to be deemed preferred that are safe and clinically effective, as supported by available clinical data, and meet pricing standards.

b. Cost effectiveness or any pricing standard shall be considered only after a drug is determined to be safe and clinically effective. The committee shall recommend to the department:

(1) Which therapeutic classes of drugs should be subject to the preferred drug list program and prior authorization requirements;

(2) Specific drugs within each therapeutic class to be included on the preferred drug list;

(3) Appropriate exclusions for medications, including atypical anti-psychotics, used for the treatment of serious mental illnesses such as bi-polar disorders, schizophrenia, and depression;

(4) Appropriate exclusions for medications used for the treatment of certain brain disorders, cancer and HIV-related conditions;

(5) Appropriate exclusions for therapeutic classes in which there is only one drug in the therapeutic class or there is very low utilization, or for which it is not cost effective to include in the preferred drug list program;

(6) Appropriate grandfather clauses when prior authorization would interfere with established complex drug regimens that have proven to be clinically effective;

(7) Other clinical criteria that may be included in the pharmacy program; and

(8) Guidance and recommendations regarding the department's pharmacy programs.

c. As the United States Food and Drug Administration (FDA) approves new drug products, the department shall ensure that the Pharmacy and Therapeutics Committee will evaluate the drug for clinical effectiveness and safety. Based on clinical information and pricing standards, the P&T Committee will determine if the drug will be included in the PDL or require prior authorization.

(1) If the new drug product falls within a drug class previously reviewed by the P&T Committee, until the review of the new legend drug is completed, it will be classified as nonpreferred, requiring prior authorization in order to be dispensed. The new legend drug will be evaluated for inclusion in the PDL no later than at the next review of the drug class.

(2) If the new drug product does not fall within a drug class previously reviewed by the P&T Committee, the new drug shall be treated in the same manner as the other drugs in its class.

d. To the extent feasible, the P&T Committee shall review all drug classes included in the PDL at least every 12 months and may recommend additions to and deletions from the PDL.

D. Pharmacy contractor. The department may contract for pharmaceutical benefit management services to manage, implement and administer the Medicaid pharmacy benefits preferred drug list, as directed, authorized, and as may be amended from time to time, by DMAS.

1. The department, as the sole Title XIX authority for the Commonwealth, shall retain final administrative authority over all pharmacy services.

2. The department shall not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses shall not be based on the percentage of cost savings generated under the benefit management of services.

E. Supplemental rebates. The department shall have the authority to seek supplemental rebates from drug manufacturers. The contract regarding supplemental rebates shall exist between the manufacturer and the Commonwealth. Rebate agreements between the Commonwealth and a pharmaceutical manufacturer shall be separate from the federal rebates and in compliance with federal law, §§ 1927(a)(1) and 1927(a)(4) of the Social Security Act. All rebates collected on behalf of the Commonwealth shall be collected for the sole benefit of the state share of costs. One hundred percent (100%) of the supplemental rebates collected on behalf of the state shall be remitted to the state. Supplemental drug rebates received by the Commonwealth in excess of those required under the national drug rebate agreement will be shared with the federal government on the same percentage basis as applied under the national drug rebate agreement.

F. Appeals. The department shall provide an expedient reconsideration process and initiate and fully participate in the DMAS' appeal process pursuant to 12VAC30-110, Part I, Client Appeals, for providers and recipients.

G. Annual report. The department shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on an annual basis.