



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: **VICTORIA P. SIMMONS**
Regulatory Coordinator
Department of Medical Assistance Services

FROM: **PAIGE S. FITZGERALD**
Special Counsel to DMAS

DATE: March 4, 2004

SUBJECT: Proposed Fast-Track Regulations concerning Discontinuance of Resource Test and Counting of Earned Income for Family and Children Groups

I have reviewed the attached proposed regulations regarding eligibility changes that would discontinue the use of a resource test and the counting of earned income for family and children groups.

Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Va. Code § 32.1-324, has the authority to promulgate these amendments to the State Plan, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. These regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to make the changes to the regulations specifying more liberal methods of treating income and resources. The authority for these proposed regulations derives from section 1902(r)(2) of the Social Security Act (42 U.S.C. § 1396a(r)(2)), which allows states to modify their eligibility process to make more liberal the review of certain resources and income elements in determining financial eligibility.

If you have any questions or need any additional information, please feel free to call me at 786-0095.

cc: Kim F. Piner, Esquire

Attachment