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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	Department of Medical Assistance Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC30-10-40
<b>VAC Chapter title(s)</b>	State Medical Care Advisory Committee
<b>Action title</b>	Tribal Consultation
<b>Final agency action date</b>	7/6/21
<b>Date this document prepared</b>	7/6/21

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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 this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

Federal law required DMAS to meet the requirements of Section 1902(a)(73) of the Social Security Act §1902. Section 1902(a)(73) mandates that States in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services establish a process for the State Medicaid agency to seek advice on a regular, ongoing basis from designees of Indian health programs. Consultation is required concerning Medicaid matters having a direct impact on these Indian health programs.

Virginia has a new Indian Health Program that furnishes health care services. The Pamunkey Tribe has established an Indian Health Program to provide Medicaid services to its community members. To maintain a cooperative channel of communication and informative dialogue between DMAS

and the Pamunkey Tribe, the Agency has coordinated a process which seeks advice on a regular, ongoing basis from the tribal health program.

DMAS continues to solicit advice prior to the submission of any plan amendments, waiver requests, and proposals for demonstration projects that are likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations. Also, as this interactive communication between DMAS and the tribal program will likely have a direct effect on the administration of the program's services, DMAS has identified a program designee as an advisory contact through which the dissemination of information will occur.

### **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, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "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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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.

This regulation is expected to be non-controversial because it establishes and maintains a cooperative channel of communication and informative dialogue between DMAS and the tribal organizations, to provide health services to Medicaid members.

This action is exempt from the regulatory process in accordance with Va. Code 2.2-4006(A)(4)(c).

### **Statement of Final Agency Action**

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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DMAS has submitted Final Exempt changes to 12VAC30-10-40, "State Medical Care Advisory Committee", in order to solicit and address advice from Tribes and Indian Health Programs.