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MEMORANDUM

TO: CHARLOTTE ARBOGAST
Virginia Department for Aging and Rehabilitative Services

FROM: ELIZABETH M. GUGGENHEIM *E. M. G.*
Senior Assistant Attorney General

DATE: July 17, 2026

SUBJECT: Fast-Track Regulations – Remove Targeted Case Management Services for Recipients of Auxiliary Grants; 22 VAC 30-110-10, 100, & 110

You have asked the Office of the Attorney General to review the attached regulations and determine if the Commissioner of the Department for Aging and Rehabilitative Services (DARS) has the statutory authority to promulgate these regulations and if they comport with applicable state law.

This regulatory action, which follows a Periodic Review, repeals provisions in 22 VAC 30-110 for Medicaid-covered Targeted Case Management (TCM) for Auxiliary Grant (AG) Program participants residing in assisted living facilities (ALFs). Specifically, this action removes outdated definitions contained in 22 VAC 30-110-10, repeals the associated TCM section found at 22 VAC 110-100, and amends appeal notification requirements in 22 VAC 30-110-110. The Department of Medical Assistance Services (DMAS) repealed its regulations for Medicaid TCM for AG participants in ALFs because they were outdated and no longer aligned with DMAS' current practice (*See: Action 6656/Stage 10594*). Medicaid no longer covers TCM for AG Program participants in ALFs.

The DARS Commissioner has authority “to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by the Department.” Va. Code § 51.5-131. Further, DARS is responsible “for the planning and oversight of adult services in the Commonwealth”, including ALF assessments. Va. Code § 51.5-145 and *see* § 51.5-146. The Commissioner is required to promulgate regulations governing the ALF assessment process for admissions and periodic reassessments of ALF residents. *See* Va. Code § 63.2-1804. Accordingly, it is my view that the Commissioner of DARS has the authority to promulgate these regulations.

If you have any questions, please contact me at (804) 786-2071.

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