



**COMMONWEALTH of VIRGINIA**  
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**MEMORANDUM**

**TO: BRIAN MCCORMICK**  
Regulatory and Manual Section Manager  
Department of Medical Assistance Services

**FROM: ELIZABETH A. MCDONALD** *EAM*  
Special Counsel to DMAS

**DATE: July 22, 2009**

**SUBJECT: Final Exempt Regulations to Modify FAMIS Assignment to Managed Care**

I have reviewed the attached final exempt regulation. The regulation will modify FAMIS to allow children assigned to a managed care health insurance plan ("MCHIP") in an area where there is only one contracted MCHIP to request reassignment to the traditional fee-for service delivery and payment system as an alternative. You have asked the Office of the Attorney General to review and determine if DMAS has the legal authority to promulgate the final exempt regulation and if it comports with state and federal law.

Based on that review, it is this Office's view that DMAS has the authority, subject to compliance with the provisions of Article 2 of the Administrative Process Act (APA), and has not exceeded that authority.

This regulation is mandated in Section 403 of the Children's Health Insurance Program Reauthorization Act ("CHIPRA"). Based on the foregoing, it is my view that the promulgation of this regulation is exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(c). If you have any questions, please feel free to contact me at 786-7363.

cc: Kim F. Piner  
Senior Assistant Attorney General



# Virginia Regulatory Town Hall

Logged in: eam

## Final Text

**Action:** CHIPRA FAMIS Managed Care

**Stage:** Final

6/15/09 4:16 PM

### **12VAC30-141-660. Assignment to managed care.**

A. Except for children enrolled in the Virginia Birth-Related Neurological Injury Compensation Program established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 of the Code of Virginia, all eligible enrollees shall be assigned in managed care through the department or the central processing unit (CPU) under contract to DMAS. FAMIS recipients, during the preassignment period to a PCP or MCHIP, shall receive Title XXI benefits via fee-for-service utilizing a FAMIS card issued by DMAS. After assignment to a PCP or MCHIP, benefits and the delivery of benefits shall be administered specific to the type of managed care program in which the recipient is enrolled. DMAS shall contract with MCHIPs to deliver health care services for infants born to mothers enrolled in FAMIS for the month of birth plus two additional months regardless of the status of the newborn's application for FAMIS. If federal funds are not available for those months of coverage, DMAS shall use state funding only.

1. MCHIPs shall be offered to enrollees in certain areas.
2. In areas with one contracted MCHIP, all enrollees shall be assigned to that contracted MCHIP.
3. In areas with multiple contracted MCHIPs or in PCCM areas without contracted MCHIPs, enrollees shall be assigned through a random system algorithm; provided however, all children within the same family shall be assigned to the same MCHIP or primary care provider (PCP), as is applicable.
4. In areas without contracted MCHIPs, enrollees shall be assigned to the primary care case management program (PCCM) or into the fee-for-service component. All children enrolled in the Virginia Birth-Related Neurological Injury Compensation Program shall be assigned to the fee-for-service component.
5. Enrolled individuals residing in PCCM areas without contracted MCHIPs or in areas with multiple MCHIPs, will receive a letter indicating that they may select one of the contracted MCHIPs or primary care provider (PCP) in the PCCM program, in each case, which serve such area. Enrollees who do not select an MCHIP/PCP as described above, shall be assigned to an MCHIP/PCP as described in subdivision 3 of this section.
6. Individuals assigned to an MCHIP or a PCCM who lose and then regain eligibility for FAMIS within 60 days will be re-assigned to their previous MCHIP or PCP.

B. Following their initial assignment to a MCHIP/PCP, those enrollees shall be

restricted to that MCHIP/PCP until their next annual eligibility redetermination, unless appropriately disenrolled by the department.

1. During the first 90 calendar days of managed care assignment, an enrollee may request reassignment for any reason ~~from that MCHIP/PCP to another MCHIP/PCP serving that geographic area.~~ Such reassignment shall be effective no later than the first day of the second month after the month in which the enrollee requests reassignment.

2. ~~Reassignment is available only in areas with the PCCM program or where multiple MCHIPs exist.~~ If multiple MCHIPs exist, enrollees may only request reassignment to another MCHIP serving that geographic area. In PCCM areas, an enrollee may only request reassignment to another PCP serving that geographic area. In areas with only one MCHIP, enrollees may request reassignment to fee-for-service.

3. After the first 90 calendar days of the assignment period, the enrollee may only be reassigned from one MCHIP/PCP to another MCHIP/PCP or to fee-for-service in areas with only one MCHIP upon determination by DMAS that good cause exists pursuant to subsection C of this section.

C. Disenrollment for good cause may be requested at any time.

1. After the first 90 days of assignment in managed care, enrollees may request disenrollment from DMAS based on good cause. The request must be made in writing to DMAS and cite the reasons why the enrollee wishes to be reassigned. The department shall establish procedures for good cause reassignment through written policy directives.

2. DMAS shall determine whether good cause exists for reassignment.