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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	The Virginia Birth-Related Neurological Injury Compensation Program
<b>Virginia Administrative Code (VAC) citation(s)</b>	14 VAC10-10-10 through 14 VAC10-10-230
<b>Regulation title(s)</b>	Chapter 10 Virginia Birth-Related Neurological Injury Compensation Program Regulations, §14VAC10-10-10 Program Is A Payer of Last Resort; §14VAC10-10-20 Primary Insurance; §14VAC10-10-30 Medical Review, §14VAC10-10-40 Counseling; §14VAC10-10-50 Personal Nursing and Assistive Care; §14VAC10-10-60 Dental Care; §14VAC10-10-70 Therapy; §14VAC10-10-80 Transportation: Vans; §14VAC10-10-90 Equipment; §14VAC10-10-100 Augmentative Communication Technology; §14VAC10-10-110 Privately Owned Housing Assistance; §14VAC10-10-120 Rental Housing Assistance; §14VAC10-10-130 Funeral Expenses; §14VAC10-10-140 Attorneys' Fees; §14VAC10-10-150 Miscellaneous Expenses; §14VAC10-10- 160 Insurance; §14VAC10-10-170 Reimbursement; §14VAC10-10- 180 Claims for Reimbursement; §14VAC10-10-190 Requests for Authorization to Obtain Services Outside Your Insurance Plan's Covered Area or Network; §14VAC10-10-200 Medically Necessary Travel More Than 100 Miles from Admitted Claimant's Primary Residence; §14VAC10-10-210 Requests for Benefits Not Specifically Addressed in Regulations; §14VAC10-10-220 Experimental Treatment and Therapy; §14VAC10-10-230 Disagreements
<b>Action title</b>	Final Regulations
<b>Final agency action date</b>	February 16, 2018
<b>Date this document prepared</b>	February 16, 2018

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Chapter 10 provides the general procedural requirements concerning the Program's claims processing. More specifically, Sections 14VAC10-10-10 through 14VAC10-10-30 in this Chapter explain that each admitted claimant's primary insurance and other sources of coverage should be billed for covered services before the Program is asked to pay for a service; except to the extent that it is prohibited by federal law; that the primary insurance carrier's certification or authorization process must be satisfied before the Program is asked to make payment; that the primary insurer's in-network providers and facilities must be utilized unless the Program authorizes otherwise; and that the Program may submit requests for services or equipment for independent medical review to determine medical necessity or appropriateness of care before authorizing payment of a claim.

Additionally, Sections 14VAC10-10-40 through 14VAC10-10-150 provide information concerning the benefits available to admitted claimants from the Program. More specifically, these sections describe the counseling, personal nursing and assistive care, dental care, therapy, van, equipment, augmentative communication technology, privately owned housing assistance, rental housing assistance, funeral expenses, attorneys' fees, medically necessary mileage reimbursement, postage, cell phones, diapers, therapeutic toys, and other expenses benefits. These provisions also explain how to request reimbursement/compensation for the types of expenses covered by the benefits described and sets forth the types of supporting information and/or documentation that must be submitted with the request. Any conditions or limitations concerning benefits are set forth in these provisions, as well.

Sections 14VAC10-10-160 through 14VAC10-10-230 provide information concerning other procedures for the Program's claims processing. More specifically, these provisions require an admitted claimant's parent or guardian to utilize the primary insurer's in-network providers and facilities and to submit claims under the primary health insurance policy before requesting payment from the Program; to request pre-authorization from the Program before expenses are incurred; to submit requests in a timely manner; and to obtain pre-authorization from the Program before expenses are incurred for services rendered outside the admitted claimant's insurance plan's covered service area or provider network. These regulations also explain how to request benefits that are not expressly addressed by the Program's regulations, how to request payment for experimental treatment or therapy, and how to request resolution of a disagreement by the Program's Board of Directors or the Virginia Workers' Compensation Commission. Any requirements, conditions, or limitations related to these procedures are set forth in these provisions, as well.

### Statement of final agency action

*Please 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.*

These regulations were approved by the Virginia Birth-Related Neurological Injury Compensation Program's Board on October 14, 2008. These regulations are collectively referred to as Chapter 10 Virginia Birth-Related Neurological Injury Compensation Program Regulations.

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

This action does not change the authority or rights of parents in educating, nurturing, or supervising their children. Although these regulations collectively concern benefits which when received arguably decrease self-sufficiency and responsibility by providing an alternate source of funding for certain medical expenses, providing such compensation is one of the Program's statutory purposes. These regulations also help ensure the availability of healthcare for women and children in Virginia by keeping the cost of medical malpractice insurance premiums low and making it possible for obstetricians to practice in Virginia. These regulations collectively should strengthen the marital commitment by reducing financial pressures on families with eligible children. The regulations collectively should result in increased disposable family income because the Program's Fund would be used to pay for medical expenses compensable under the Virginia Birth-Related Neurological Injury Compensation Act, Virginia Code §38.2-5000, *et seq.*