



Virginia  
Regulatory  
Town Hall

## Emergency Regulation Agency Background Document

<b>Agency Name:</b>	Dept. of Medical Assistance Services; 12 VAC 30
<b>VAC Chapter Number:</b>	12 VAC 30-80
<b>Regulation Title:</b>	Methods and Standards for Establishing Payment Rates-Other Types of Care
<b>Action Title:</b>	Supplemental Payments for Type I Physician Services
<b>Date:</b>	7/11/02; GOV ACTION NEEDED BY JULY 30, 2002

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

### Emergency Preamble

*Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).*

*Please include a brief summary of the emergency action. There is no need to state each provision or amendment.*

Item 325 EE of the 2002 Acts of Assembly (chapter 899) authorized DMAS to reimburse state academic health systems or state academic health systems under a state authority for services provided by affiliated physician groups based on the lesser of billed charges or the Medicare fee schedule. This item shall become effective consistent with approval by the Centers for Medicare and Medicaid of the related State Plan amendments. The Department also is granted the authority to enact emergency regulations. The regulation is not exempt under section 9-6.14:4.1(C)(4).

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.*

*Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*

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The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Item 325 EE authorized DMAS to reimburse state academic health systems and academic health systems that operate under a state authority for services provided by affiliated physician groups based on the lesser of billed charges or the Medicare fee schedule. Medicaid payments to physicians are subject to the requirement in the *Social Security Act*, § 1902(a)(30), that payments for services be consistent with efficiency, economy, and quality of care. Payments equal to that paid by Medicare meet that standard.

## Substance

*Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

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The section of the State Plan for Medical Assistance affected by this amendment is Methods and Standards for Establishing Payment Rates-Other Types of Care (Attachment 4.19-B (12 VAC 30-80-30)).

The suggested emergency regulation would create a category of physician (Type I) who is a member of a group affiliated with either a state academic health system or an academic health system that operates under a state authority. These two provider groups include physicians affiliated with UVA Medical Center, VCU's Medical College of Virginia, and Eastern Virginia Medical School. The suggested emergency regulation would provide supplemental

reimbursement for Type I physician services equal to the difference between the current Medicaid and Medicare fee schedules.

Because approximately 50% of Medicaid payments are federally funded, by maximizing payments to Type I physicians, the Commonwealth will maximize the federal funding available to Virginia through these increased Medicaid payments. No disadvantages to the public have been identified in connection with this regulation. The agency projects no negative issues involved in implementing this regulatory change.

Providers affected by this action are Type I physicians receiving the supplemental payments. Localities affected are those with Type I physicians. Other providers and localities are not affected, and recipients are not affected. Supplemental payments will be based upon transfer agreements with the affected public entities to which these providers are associated through the group practices and the subsequent transfer of funds.

Physicians affiliated with academic health centers fulfill an important and unique role within the Virginia health care system as safety net providers. Many safety-net providers incur costs for which they are not currently reimbursed above and beyond the costs incurred by private providers.

### Alternatives

*Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.*

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The General Assembly has mandated this change to the State Plan. The only alternative is to make no change. If this state regulation is not adopted, however, the Commonwealth will not be able to maximize the federal funding available to Virginia.

### Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the 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.

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This regulation has no impact on recipients or their families. These changes do not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 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; strengthen or erode the marital commitment; or increase or decrease disposable family income.