



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: **VICTORIA P. SIMMONS**
Regulatory Coordinator
Department of Medical Assistance Services

FROM: **PAIGE S. FITZGERALD**
Special Counsel to DMAS

DATE: October 17, 2003

SUBJECT: Proposed Regulations concerning Inpatient Operating, Disproportional Share Hospital (DSH), and Indirect Medical Education (IME) Payments for Type One Hospitals

I have reviewed the attached proposed regulations regarding changes to the regulations governing payment rates for inpatient hospital services, specifically those of Type One hospitals.

Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Va. Code § 32.1-324, has the authority to promulgate these amendments to the State Plan, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. These regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to make permanent the changes to regulations concerning payments made to Type One hospitals. These changes were originally made by the promulgation of emergency regulations, and were approved by this Office in a memorandum dated July 16, 2003.

The authority for these proposed regulations regarding payments to Type One hospitals derives from federal requirements set forth at 42 C.F.R. § 447.201, which requires that a State plan "describe the policy and the methods to be used in setting payment rates for each type of service included in the State's Medicaid program." This proposed regulation revises the description of the payment methodology for Type One hospitals included in DMAS's State plan.

If you have any questions or need any additional information, please feel free to call me at 786-3450.

cc: Siran S. Faulders, Esquire
Attachment