



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Dept. of Medical Assistance Services; 12 VAC 30
VAC Chapter Number:	12 VAC 30, Chapter 120
Regulation Title:	MEDALLION
Action Title:	Changes from BBA
Date:	

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This proposed regulation reflects several types of changes to the MEDALLION primary care case management (PCCM) system. This regulation revises and updates the MEDALLION regulations to address several operational and waiver changes in the MEDALLION program. Some of these changes arise from changes in federal law set forth in the Balanced Budget Act (BBA) in which the states have limited discretion in implementing. Other changes are being made to clarify existing regulations. Finally, certain of the amendments in this package are being made in order to accommodate changes in other programs that have an impact on managed care, such as changes to the Medicaid school health program. Revisions are being made in the following sections of the MEDALLION regulations: Definitions (12 VAC 30-120-260), changes and additions to the enrollment/disenrollment process set forth in 12 VAC 30-120-280, new types of providers added in 12 VAC 30-120-290, several new types of referral exemptions in 12

VAC 30-120-310, changes to the maximum number of clients a PCP may serve in 12 VAC 30-120-320, and finally, the PCP Sanctions section (12 VAC 30-120-350) is amended to include greater penalties for PCP misconduct.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided

The Code of Virginia (1950) as amended, section 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, section 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. The Medicaid authority was established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a], which provides the governing authority for DMAS to administer the State’s Medicaid system.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

This regulatory action is expected to have a positive impact on the health, safety and welfare of Virginia citizens. The changes set forth in this proposed regulation enhance the ability of MEDALLION enrollees to make health care choices, specifically with regard to enrollment and disenrollment. These changes also provide medical service enhancements for MEDALLION clients by lowering the maximum number of patients each PCP can serve, and by creating greater sanctions for PCPs that provide substandard service or infringe on enrollee rights.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action’s changes.

The sections of the Virginia Administrative Code that are affected by this change are 12 VAC 30-120-280 through 30-120-350. Because Chapter 120 consists of Non-State Plan regulations,

no sections of the State Plan for Medical Assistance are affected. The particular sections of Chapter 120 that are affected are as follows:

Definitions (12 VAC 30-120-260)

The following definitions were amended: “Action,” “AFDC,” “Appeal,” “Area of residence,” “Client,” “Enrollee,” “EPSDT,” “Foster care,” and “Spend down.” The following definitions were added: “Area of residence,” “Covered services,” “Eligible person,” “Enrollment broker,” “Exclusion from MEDALLION,” “External Quality Review Organization” (EQRO), “Health care professional,” “Post-stabilization care services,” “Primary Care Case Management System” (PCCM), “School health services,” and “TANF.”

MEDALLION clients (12 VAC 30-120-280)

42 CFR § 438.56 specifies “for cause” reasons why an enrollee can change their PCP. These new criteria are reflected in 12 VAC 30-120-280(F) regarding good cause for disenrollment. Reasons that qualify as “for cause” for a PCP change will now include: lack of access to providers, moving out of the service area, and lack of coverage for the services sought by the enrollee. Additionally, these regulations provide that enrollees may now change their PCP without cause at any time during the 90 days following their initial enrollment. In addition, several enrollee groups were added to the exclusion list in –280 to reflect those groups listed in the MEDALLION waiver.

Providers of service (12 VAC 30-120-290)

DMAS amended the list of PCPs that may provide MEDALLION services to include Federally Qualified Health Centers (FQHC).

Services exempted from MEDALLION referral requirements (12 VAC 30-120-310)

Amendments to this section add seven medical services to the list of services that are exempted from MEDALLION referral requirements. These services are: school health services provided pursuant to IDEA, treatment of sexually transmitted diseases, targeted case management services, transportation services, pharmacy services, substance abuse treatment for pregnant women, and mental health/mental retardation community rehabilitation services, dental and family planning.

PCP payments (12 VAC 30-120-320)

To be consistent with MEDALLION Waiver requirements, this amendment lowers the maximum number of MEDALLION clients a PCP can serve from 2,000 to 1,500. It also adds a service

limit of 10,000 enrolled recipients for certain local health department clinics, Federally Qualified Health Centers, Rural Health Centers and other DMAS approved clinics.

PCP Sanctions (12 VAC 30-120-350).

Changes to this subsection expand the list of infractions for which PCP may be sanctioned, and add certain civil money penalties that may be imposed.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

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.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	There is no projected cost to the state to implement this regulation.
Projected cost of the regulation on localities	There is no cost to localities to implement this regulation.
Description of the individuals, businesses or other entities likely to be affected by the regulation	This regulation affects physicians and physician groups that act as primary care providers (PCPs) to MEDALLION clients. PCPs may include local health clinics and rural health centers. In addition to those individuals and entities that act as PCPs, the individual Medicaid recipients that are MEDALLION clients will also be affected.
Agency's best estimate of the number of such	There are approximately 1600 active PCPs

entities that will be affected	enrolled in the MEDALLION program, and approximately 81,000 Medicaid recipients enrolled as MEDALLION clients.
Projected cost of the regulation for affected individuals, businesses, or other entities	There is no cost projected for the affected individuals or other entities.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

Current section number	Current requirement	Proposed change and rationale
12VAC30-120-260	Definitions: addresses the following: "Action," "AFDC," "Client," "Enrollee," "Gatekeeper," and "Spend down."	<ul style="list-style-type: none"> ▶ "Action" is expanded to include changes in level of service and denial (total/partial) of payment for service. ▶ "AFDC" was changed to Temporary Assistance to Needy Families (TANF), so this definition now references that. ▶ "Client" now includes as synonymous terms "recipient," "enrollee," and "participant." ▶ "Enrollee" is being deleted as it is now included in the definition of "Client." ▶ "Gatekeeper" is being updated to "Care coordination." ▶ "Spend down" is clarified by indicating that it refers to medically needy individuals.
12VAC30-120-260	New definitions added.	<ul style="list-style-type: none"> ▶ "Area of residence" added to specify recipient's address. ▶ "Covered services" means Medicaid covered services as defined in the State Plan for Medical Assistance. ▶ "Eligible person" is a person eligible to receive Medicaid. ▶ "Exclusion from MEDALLION" means removed from MEDALLION program.
12VAC30-120-260	New definitions added.	<ul style="list-style-type: none"> ▶ "External Quality Review Organization"

<p>12VAC30-120-280(F)</p> <p>12VAC30-120-280(G)</p> <p>12VAC30-120-280(H), now (G)</p>	<p>selection within 30 days.</p> <ul style="list-style-type: none"> ▶ Changing PCPs. ▶ MEDALLION I.D. cards issued. ▶ Prior authorization exclusions. 	<ul style="list-style-type: none"> ▶ Added reasons for changing include PCP performance that falls below generally accepted community practice of health, and other reasons as determined by DMAS. Deleted. Cards are no longer issued. ▶ Family planning services added to list of exclusions from prior authorization.
<p>12VAC30-120-290</p>	<p>Providers of services.</p>	<ul style="list-style-type: none"> ▶ Federally Qualified Health Centers (FQHC), Rural Health Centers and certain local Health Departments added to list of PCPs that may provide MEDALLION services.
<p>12VAC30-120-310</p>	<p>Services exempted from MEDALLION referral requirements.</p>	<ul style="list-style-type: none"> ▶ Added to list of referral exempt services: school health services, treatment of sexually transmitted diseases, targeted case management, transportation, pharmacy, substance abuse treatment for pregnant women, and MH/MR community rehabilitation.
<p>12VAC30-120-320</p>	<p>PCP Client Limits.</p> <ul style="list-style-type: none"> ▶ PCPs may serve a maximum of 2,000 clients. 	<ul style="list-style-type: none"> ▶ Changed to a maximum of 1,500. ▶ Added clause that Federally Qualified Health Centers (FQHC), Rural Health Centers and certain local Health Departments are limited to enrollment of 10,000.
<p>12VAC30-120-350</p> <p>12VAC30-120-350</p>	<p>PCP remedies for violation of contract terms.</p> <p>PCP remedies for violation of</p>	<ul style="list-style-type: none"> ▶ This section is now entitled "Sanctions." ▶ New violations/sanctions added: ▶ failure to provide medically necessary services (maximum of \$25,000 fine). ▶ imposes on enrollees cost-sharing measures not permitted by DMAS (maximum of \$25,000 fine or double the amount of excess charges, whichever greater). ▶ discrimination based upon health status or need for health services (\$15,000 per enrollee discriminated against, cap at \$100,000). ▶ misrepresents/falsifies information provided to enrollees (maximum of \$25,000 fine) or to the Commonwealth (maximum \$100,000 fine). ▶ improper marketing (maximum of \$25,000).

12VAC30-120-350(5)	<p>contract terms.</p> <p>Termination.</p>	<p>▶ any other violations under sections 1932 or 1905(t)(3) of the Social Security Act.</p> <p>▶ Adds clause that once DMAS notifies a PCP that it intends to terminate its contract, DMAS shall allow the PCP's enrollees to disenroll immediately.</p>
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Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Several of the changes to the regulations described herein are a response to the Balanced Budget Act of 1997. The bulk of other changes made in this regulatory package are clarifications of existing policies or were made to update the regulations with regard to current practice in the MEDALLION program. New language was chosen for certain definitions in order to maximize clarity, while certain new definitions were added because those terms were in use in the program but had not previously been defined. New exemptions to MEDALLION were chosen because experience in the program has shown that the medical needs of clients in the exempted categories are best served outside of the MEDALLION program. The new options for disenrollment were added to allow clients greater choice in finding the PCP that best suits their needs. With regard to the medical services excluded from the MEDALLION referral requirements, DMAS exempted those services that could best be provided through other Medicaid programs in order to better serve the recipients' needs. PCP client service limits were lowered by one quarter to be consistent with the MEDALLION Waiver and ensure that PCPs would not be burdened, and thus be enabled to serve their clients more effectively. Finally, the sanctions chosen were those provided for in the BBA. The only choice available under the new federal law was to include them or not include them in the MEDALLION program. DMAS chose to include them because they put more force behind DMAS' efforts to protect the rights of MEDALLION clients.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

DMAS published an Emergency/NOIRA action addressing these changes on December 29, 2003 (Va. Register, Volume 20, Issue 8). No public comments were received.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency has reviewed the regulation and has determined that it is clearly written and easily understandable by the individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

DMAS will include the monitoring, in collaboration with the affected industry, of this regulatory action as part of its ongoing management of State Plan policies and its Executive Order 21(02) activities.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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 regulation is projected to have a positive impact on recipients or their families. Items were amended to clarify interpretation and facilitate a better understanding for recipients and providers with regard to several definitions. The changes were made to provide greater flexibility with regard to enrollment and disenrollment, as well as to increase client protection. Changes to this regulation will 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; the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; strengthen or erode the marital commitment.