



COMMONWEALTH of VIRGINIA

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Richmond 23219*

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory Coordinator
Virginia Department of Medical Assistance Services

FROM: USHA KODURU
Assistant Attorney General

DATE: January 27, 2005

SUBJECT: Fast Track Regulation Modifying Physician Certification Standards

I am in receipt of the attached regulation changing DMAS requirements for physician certification and re-certification of home health patient care. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services ("DMAS") has the legal authority to promulgate the regulation and if the regulation comports with state and federal law.

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 the changes to the regulations to decrease the administrative oversight for home health providers and reduce confusion as they provide services to recipients. These amendments will bring DMAS's current home health agency policies in line with the Centers for Medicare and Medicaid Services' ("CMS") policies.

Because this regulation will amend the State Plan, approval by CMS will also be required.

Brian McCormick

January 27, 2005

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If you have any questions or need additional information, please contact me at 225-2741.

cc: Kim F. Piner, Esquire

Attachment