



## **COMMONWEALTH of VIRGINIA**

*Office of the Attorney General  
Richmond 23219*

**Judith Williams Jagdmann**  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
804-371-8947 TDD

### **MEMORANDUM**

**TO: BRIAN McCORMICK**  
Regulatory Coordinator  
Virginia Department of Medical Assistance Services

**FROM: KIM F. PINER**  
Senior Assistant Attorney General

**DATE: January 23, 2006**

**SUBJECT: Proposed Regulation for IME Payments**

I am in receipt of the attached proposed regulation to implement new supplemental Indirect Medical Education (IME) payments under the Medicaid program. 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 proposed regulation and if the proposed regulation comports with state and federal law.

Based on my review, DMAS has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

Pursuant to Virginia Code §§ 32.1-324, 32.1-325, which grants to the Board of Medical Assistance Services the authority to administer and amend the plan for Medical Assistance and authorizes the Director of DMAS to administer and amend the plan for Medical Assistance according to the Board’s requirements. The authority for these proposed regulations derives from sections 1902(a), which provides governing authority for the provision of such services.

This proposed regulation combines two previous and separate emergency regulatory actions to implement a new supplemental IME payment for hospitals with Medicaid NICU utilization

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greater than 50 percent and to implement a new supplemental IME payment for hospitals which did not qualify at this threshold with Medicaid NICU days in excess of 4,500.

If you have any questions, please feel free to contact me at 786-3524.

Attachment