



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

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**MEMORANDUM**

**TO: BRIAN MCCORMICK**  
Regulatory and Manual Section Manager  
Department of Medical Assistance Services

**FROM: REATHA B. KAY**  
Special Counsel to DMAS

**DATE: October 26, 2005**

**SUBJECT: Proposed Regulations concerning Smiles for Children Dental Program**

I have reviewed the attached proposed regulations concerning the changes to the Medicaid and Family Access to Medical Insurance Security ("FAMIS") Plan regulations concerning dental services.

Based on that review, it is this Office's view that the Director, acting on behalf of the Board pursuant to Va. Code §§ 32.1-324 and 32.1-351, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. The amendments to the regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to (1) carve-out dental services from Medicaid managed care and implement an updated prior authorization regimen for dental services, and (2) carve-out dental services from the FAMIS Plan managed care and provide that prior authorization of dental services will match the prior authorization requirements in the Medicaid program. The changes were first made by the promulgation of two separate emergency regulations, and were approved by this Office in memoranda dated February 18, 2005 and June 14, 2005.

Brian McCormick

October 26, 2005

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If you have any questions, please feel free to call me at 786-1841.

cc: Kim F. Piner, Esquire

Attachment