



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory Coordinator
Department of Medical Assistance Services

FROM: ELIZABETH A. MCDONALD
Special Counsel

DATE: November 14, 2006

SUBJECT: Fast Track Regulation regarding Long-Term Care Partnership Insurance

I have reviewed the attached fast track regulation regarding long-term care partnership insurance.

Based on that review, it is my view that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Va. Code §32.1-324, has the authority to promulgate this regulation to the Medicaid regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. This regulation will enable the Director, in lieu of the Board of Medical Assistance Services, to prevent the recovery or adjustment by the State from an individual's estate, who is a participant in the long-term care partnership insurance, for the amount of assets or resources disregarded during an individual's initial eligibility determination or subsequent redeterminations. However, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the Department of Medical Assistance Services shall (i)

file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you have any questions or need any additional information, please feel free to call me at 786-3890.

cc: Kim F. Piner
Senior Assistant Attorney General

