

REGULATORY REVIEW SUMMARY

Amendment to the Plan for Medical Assistance

I. IDENTIFICATION INFORMATION

Title of Proposed Regulation: Methods and Standards for Establishing Payment Rates-
Other Types of Care: Repeal of Supplement Containing
Obstetric/Pediatric Rates

Director's Recommendation: September 21, 1998

Public Comment Period:

Proposed Effective Date: May, 1999

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II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, §32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) §§9-6.14:7.1 and 9-6.14:9.1, for this agency's promulgation of proposed regulations subject to the Governor's review.

The Notice of Intended Regulatory Action for this regulation was filed with the *Virginia Register* on August 19, 1998 for publication in the September 14, 1998, *Register*.

The Balanced Budget Act of 1997 (Public Law 105-33) provided at §4713 that the *Social Security Act* (the *Act*) §1926 be repealed. This section of the *Act* mandated the inclusion of the state's fees for specific obstetric and pediatric procedures into that state's State Plan for Medical Assistance. Now that this information is no longer mandated to appear in the Plan, DMAS is proceeding, under the requirements of the *Administrative Process Act* §9-6.14:7.1 et seq, to repeal this section from the State Plan.

Purpose: The purpose of this proposal is to repeal Supplement 1 to Attachment 4.19-B (12 VAC 30-80-160) from the State Plan for the efficient and economical operation of the state agency. The agency is no longer federally required to maintain this information in the State Plan and therefore does not intend to do so. To have such information in the Plan become outdated would result in Plan users being misled.

Substance and Analysis: The section of the State Plan affected by this action is Methods and Standards for Establishing Payment Rates, Obstetric/Pediatric Fees (Attachment 4.19-B, Supplement 1 (VR 460-03-4.1910)(12 VAC 30-80-160).

The Omnibus Budget Reconciliation Act (OBRA) of 1989 §6402 added section 1926 to the *Social Security Act*. This new section required the states to incorporate into their Medicaid State Plans the fees that they paid for certain obstetric and pediatric medical procedures. By April 1st, these fees had to be submitted annually to the Health Care Financing Administration (HCFA). Additionally, the states were required to submit physician enrollment and Medicaid participation data in support of the adequacy of their fee levels. These fees were required to be effective on July 1st of each year.

DMAS has annually complied with all of the requirements of §1926 of the *Social Security Act* and secured HCFA's approval.

The Balanced Budget Act of 1997 (Public Law 105-33) §4713 repealed §1926 of the *Social Security Act*. Since DMAS no longer has a federal mandate to maintain these specific obstetric and pediatric fees in the State Plan, it is repealing this section.

Additionally, this repealing action is consistent with the administration's intent, as discussed in Executive Order Twenty-five (98), to repeal inappropriate, unnecessary regulations which lack a basis in federal or state law.

Repealing this regulation will not have any impact either on recipients, their families, or Medicaid providers. Repealing this regulation will not have any affect on how much DMAS pays for its obstetric and pediatric procedures only in that whether those procedures/fees appear in the State Plan. DMAS routinely provides fee information to providers upon request.

Issues: There are no effects to be projected for recipients, their families or Medicaid providers. The agency projects no negative issues involved in implementing this proposed change.

Executive Order 15(94) Review:

Fiscal/Budget Impact: There are no providers which are affected by this action. There are no localities which are uniquely affected by these regulations as they apply statewide.

Funding Source/Cost to Localities/Affected Entities: The requirements of this section are not applicable to this DMAS regulatory action. There is no funding source to report, no costs to localities to administer or comply with, and no budget requirements to comply with or project. The only entity that will be affected by this action will be DMAS since this action will remove a previous regulation from its State Plan for Medical Assistance.

This action will also not have any impact on local departments of social services.

Forms: No new forms are required to implement this proposed regulation.

Evaluation: DMAS routinely monitors the effect of changes to the State Plan as part of its ongoing management activities.

III. STATEMENT OF AGENCY ACTION

I hereby approve the foregoing Regulatory Review Summary and the attached amended pages to the State Plan for Medical Assistance for publication for public comment period in conformance to the public notice and comment requirements of the Administrative Process Act, Code of Virginia §9-6.14:7.1., Article 2.

09/21/1998
Date

/s/ Dennis G. Smith
Dennis G. Smith, Director
Dept. of Medical Assistance Services

REGULATORY REVIEW CHECKLIST

To accompany Regulatory Review Package

Agency Department of Medical Assistance Services

Regulation title Methods and Standards for Establishing Payment Rates-Other Types of Care: Repeal of Supplement w/ Ob/Pediatric Rates

Purpose of the regulation To repeal a regulation that is no longer required by federal law.

Summary of items attached:

- Item 1:** A copy of the proposed new regulation or revision to existing regulation.
- Item 2:** A copy of the proposed regulation submission package required by the Virginia Administrative Process Act (Virginia Code Section 9-6.14:7.I.G [redesignated Section 9-6.14:7. I.H after January 1, 1995]). These requirements are:
 - (i) the basis of the regulation, defined as the statutory authority for promulgating the regulations, including the identification of the section number and a brief statement relating the content of the statutory authority to the specific regulation proposed.
 - (ii) the purpose of the regulation, defined as the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety and welfare.
 - (iii) the substance of the regulation, defined as the identification and explanation of the key provisions of the regulation that make changes to the current status of the law.
 - (iv) the issues of the regulation, defined as the primary advantages and disadvantages for the public, and as applicable for the agency or the state, of implementing the new regulatory provisions.
 - (v) the estimated impact, defined as the projected number of persons affected, the projected costs, expressed as a dollar figure or range, for the implementation and compliance thereof, and the identity of any localities particularly affected by that regulation.
- Item 3:** A statement from the Attorney General that the agency possesses, and has not exceeded, its statutory authority to promulgate the proposed regulation.

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- ☒ **Item 4:** A statement disclosing whether the contemplated regulation is mandated by state law or federal law or regulation, and, if mandated in whole or in part, a succinct statement of the source (including legal citation) and scope of the mandate, together **with an attached copy of all cited legal provisions.**

- ☒ **Item 5:** For any proposed regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate, a specific rather than conclusory statement setting forth the reasoning by which the agency has concluded that the proposed regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function.

- ☒ **Item 6:** For any proposed regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate, a specific rather than conclusory statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered, and the reasoning by which the agency has rejected such alternatives.

- ☒ **Item 7:** A schedule setting forth when, no later than three (3) years after the proposed regulation is effective, the agency will initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated. Include a description of the specific and measurable goals the proposed regulation is intended to achieve, if practical.

- ☒ **Item 8:** A detailed fiscal impact analysis prepared in coordination with DPB that includes: (a) the projected cost to the state to implement and enforce the proposed regulation and (b) the source of funds to meet this projected cost.

/s/ Dennis G. Smith
Signature of Agency head

9/21/98
Date

10/20/98 VPS
Date forwarded to
DPB & Secretary