



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

William C. Mimms
Attorney General

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

MEMORANDUM

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

FROM: USHA KODURU
Assistant Attorney General

DATE: October 2, 2009

SUBJECT: Exempt Action to Repeal the Disease Management Program Regulation

I have reviewed the attached exempt action to terminate the Disease Management Program and repeal this regulation. 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 repeal this regulation and if it comports with federal and state law.

Section 4-1.02 of the 2009 Appropriations Act provides the Governor with the authority to direct DMAS to terminate the Disease Management Program. Based on my review, it is my view that the Director of DMAS, acting on behalf of the Board of Medical Assistance Services, pursuant to Va. Code §§ 32.1-324 and 325, has the authority to repeal this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act (“APA”) and has not exceeded that authority.

Based on the foregoing, it is my view this action is exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(a).

If you have any questions, please contact me at 786-4074.

cc: Kim F. Piner, Esquire

Attachment