



Exempt Action Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30-141-160
Regulation title	Family Access to Medical Insurance Security (FAMIS)
Action title	No Co-Pays for Pregnancy-Related Services
Final agency action date	
Document preparation date	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The section of the Virginia Administrative Code that is affected by this action is 12 VAC 30-141-160). The *Code of Virginia* (1950) as amended, §32.1-351, grants to the Board of Medical Assistance Services the authority to administer and amend the Family Access to Medical Security Insurance Plan (FAMIS). The *Code of Virginia* (1950) as amended, § 32.1-351(K), authorizes the Director of DMAS to administer and amend the Family Access to Medical Security Insurance Plan according to the Board's requirements. The federal Children's Health Insurance Program (CHIP) as established by § 2101 of the *Social Security Act* [42 U.S.C. 1397aa] provides governing authority for payments for services. The importance of prenatal care for improving birth outcomes is widely recognized. Eliminating cost sharing for pregnancy-related services covered under FAMIS removes one potential barrier to teens in low-income

families receiving needed medical services for pregnancy-related issues that could impact the pregnancy and future health of the unborn child.

Current policy allows copayments to be charged for pregnancy-related services covered under FAMIS. Under the current contract, managed care organizations (MCOs) may apply a copayment to the first prenatal care visit only. There is no cost sharing for any pregnancy-related service covered under Medicaid. Under the revised policy, copayments are not allowed for services to pregnant females related to the pregnancy. This is consistent with cost sharing limitations for Medicaid found at 12 VAC 30-10-570.C.2.b.

These regulatory changes are exempt from the requirements of the APA under Code of Virginia 2.2-4006(A)(4)(c), as they are “[N]ecessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation.” These changes are being made to conform DMAS’ FAMIS regulations to the new requirements found in the Child Health Insurance Plan Reauthorization Act of 2009 (CHIPRA), which prohibits the use of cost-sharing for pregnancy-related services in a state’s Child Health Insurance Plan for states that cover targeted low-income pregnant women. The current FAMIS regulations do not exclude cost-sharing for pregnancy-related services. Because of the CHIPRA mandate, DMAS is putting pregnancy-related services on the cost-sharing exclusion list for FAMIS in 12 VAC 30-141-160.

Section 111(a) of CHIPRA adds sec. 2112 to the Social Security Act, which includes a list of requirements for states that cover targeted low-income pregnant women. The list includes the requirement that the “State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 2103(e).” Sec. 2103(e)(3)(A)(ii) of the Social Security Act states, “[i]n the case of a targeted low-income child whose family income is at or below 150 percent of the poverty line, the State child health plan may not impose ... (ii) a deductible, cost sharing, or similar charge that exceeds an amount that is nominal.” Section 111(d)(2) of CHIPRA states, “[t]he term ‘pregnancy-related assistance’ has the meaning given the term ‘child health assistance’ in section 2110(a),” which states, “the term ‘child health assistance’ means payment for part or all of the cost of health benefits coverage for targeted low-income children that includes any of the following, ... as specified under the State plan.” The “any of the following” services include essentially all Medicaid covered services, including prenatal care.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background document with the attached amended Virginia Administrative Code Section, 12 VAC 30-141-160 (Copayments for families not participating in FAMIS Select) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

Date

Cynthia B. Jones, Acting Director
Dept. of Medical Assistance Services

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.