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Exempt Action Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30 -30-10 12VAC 30-40-170
Regulation title	Mandatory Coverage: Categorically Needy and other special groups
Action title	Increase Resource limits for Medicare Savings Program Groups
Final agency action date	
Document preparation date	December 2, 2009

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 sections of the State Plan for Medical Assistance that are affected by this action are Attachment 2.2-A (12 VAC 30-30-10) and Attachment 2.6-A (12 VAC 30-40-170). This mandatory change is a result of passage of the Medicare Improvements for Patient and Providers Act of 2008 (MIPPA). MIPPA mandates that state Medicaid programs increase the resource limits for their Medicare Savings Programs groups effective January 1, 2010. That mandate is set out in Section 112 of MIPPA, entitled, "Application of Full LIS Subsidy Assets Test Under Medicare Savings Program:

Section 1905(p)(1)(C) of such Act (42 U.S.C. 1396d(p)(1)(C)) is amended by inserting before the period at the end the following: "or, effective beginning with January 1, 2010, whose resources (as so determined) do not exceed the maximum resource level applied for the year under subparagraph (D) of section 1860D-14(a)(3) (determined without regard to the life insurance policy exclusion provided under subparagraph (G) of such section) applicable to an individual or to the individual and the individual's spouse (as the case may be)."

The section 1905(p)(1)(C) of the Social Security Act (the Act) referenced above defines a “qualified Medicare beneficiary” to be an individual whose resources “do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program.” MIPPA inserts a new mandatory resource limit effective January 1, 2010 as resources that “do not exceed the maximum resource level applied for the year under subparagraph (D) of section [1860D-14\(a\)\(3\)](#).” Section D of 1860D-14(a)(3) is in the Medicare Part D section of the Social Security Act and is entitled, “Resource Standard Applied to Full Low-Income Subsidy to be Based on Three Times SSI Resource Standard.” This section sets the resource limit for the Medicare D Low Income Subsidy program. This is the resource limit implemented by MIPPA as of January 1, 2010. Section D of 1860D-14(a)(3) sets this standard as:

the resource limitation established under this clause for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year. Any resource limitation established under clause (ii) that is not a multiple of \$10 shall be rounded to the nearest multiple of \$10.

For clarity and ease of use, DMAS incorporates this rather complicated federal statutory formula into the regulations by simply referring to “the resource limit set for the Medicare Part D Low Income Subsidy Program.”

Medicare Savings Programs groups are comprised of the current Medicaid groups of Qualified Medicare Beneficiaries (QMB), Special Low Income Medicare Beneficiaries (SLMB) and Qualifying Individuals (QI). Medicaid services for individuals in these groups consist of payment of Medicare premiums and, for the QMB group, payment of Medicare co-insurances and deductibles.

Current Medicaid regulations state that the resource limits for the Medicare Savings Program Groups are equal to twice the resource standard for the Supplementary Security Income (SSI) program. Section 112 in MIPPA (§1905 (p)(1)(C) of the Act) mandates that effective January 1, 2010, the resource limits for the Medicare Savings Program groups will increase to the same limit used for the Medicare Part D Low Income Subsidy program (also known as Extra Help). For 2010, these limits will be \$6,600 for a single individual and \$9,910 for a couple. The resource amounts for the Medicare Savings Programs will increase each time the Low Income Subsidy program resource limits change in order to remain consistent with that program’s resource limits. Virginia must change the current Medicaid regulations in order to be in compliance with the federal mandates of MIPPA.

This action meets the exemption provided by the Code of Virginia 2.2-4006 (A) (4) (c) because it conforms these attached regulations to the requirements of MIPPA and does not materially differ. Additionally, the Agency has no discretion concerning the implementation of this mandated requirement.

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 regulations: Increase Resource limits for Medicare Savings Program Groups (12 VAC 30-30-10 and 12VAC 30-40-170) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012.1, of the Administrative Process Act and is full, true, and correctly dated.

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.