



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

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

**FROM: USHA KODURU**  
Assistant Attorney General

**DATE: August 7, 2013**

**SUBJECT: Final exempt regulations to clarify public participation guidelines.**

I reviewed the attached regulations that are being amended to clarify that the Department of Medical Assistance Services (“DMAS”) shall give interested persons the opportunity to be accompanied or represented by their own counsel or representatives when submitting public comments about regulatory actions or making public comments at the agency's public hearings. You asked this office to review and determine if DMAS has the legal authority to amend these regulations and if the proposed amendments comport with state and federal law.

Based on the foregoing, it is my view that the amendment of this regulation is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Va. Code § 2.2-4006(A)(4)(a). Virginia Code §§ 32.1-324 and 32.1-325 grant to the Board of Medical Assistance Services the authority to administer and amend the plan for Medical Assistance and authorizes the Director of DMAS to take action according to the Board’s requirements. The authority for these changes derives from Chapter 795 of the 2012 Acts of the Assembly.

If you have any questions or need any additional information, please call me at 786-4074.

Attachments

cc: Kim F. Piner  
Senior Assistant Attorney General/Section Chief