



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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MEMORANDUM

TO: EMILY MCCLELLAN
Regulatory Supervisor
Department of Medical Assistance Services

FROM: JENNIFER L. GOBBLE 
Assistant Attorney General

DATE: May 22, 2018

SUBJECT: Proposed Regulations – Three Waivers Redesign

I have reviewed the proposed regulations posted to Virginia Regulatory Town Hall as of May 21, 2018, that would implement the redesign of three of DMAS' existing home and community-based waivers as approved by the Centers for Medicare and Medicaid Services. The proposed regulations are intended to replace existing emergency regulations. The Individual and Family Developmental Disabilities Support Waiver is changing to the Family and Individual Supports Waiver; the Intellectual Disability Waiver is changing to the Community Living Waiver; and the Day Support Waiver for Individuals with Mental Retardation is changing to the Building Independence Waiver.

Based on my review, it is this Office's view that the Director of the Department of Medical Assistance Services, acting on behalf of the Board of Medical Assistance Services pursuant to Virginia Code § 32.1-324, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Virginia Administrative Process Act, and has not exceeded that authority. The proposed regulations will enable the Director to implement the waiver redesign consistent with the authority set forth in Virginia Code § 32.1-324 and the directives in Chapter 780, Item 306.CCCC of the 2016 *Acts of Assembly*, and Chapter 836, Item 306.CCCC of the 2017 *Acts of Assembly*.

If you have any questions or need any additional information, please feel free to contact me at 786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General