Virginia Regulatory Town Hall

# Notice of Intended Regulatory Action
# Agency Background Document

| | |
|---|---|
| **Agency Name:** | Dept. of Medical Assistance Services 12 VAC 30 |
| **VAC Chapter Number:** | Chapter 80 |
| **Regulation Title:** | Methods and Standards for Establishing Payment Rates-Other Types of Care |
| **Action Title:** | Pharmacy Services: Unit Dose Definition and Payment |
| **Date:** | 8/29/2002 |

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

## Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The purposes of this suggested regulatory action are:

1. To conform this Department's definition of "unit dose dispensing system" to the definition used by Virginia Board of Pharmacy regulations. Conforming this agency's regulation for this issue to that of the Virginia Board of Pharmacy's related regulation is expected to eliminate an unnecessary barrier to service provision for practicing pharmacists.

2. To change the reimbursement rate for the service of "unit dose dispensing" to a per capita monthly fee. This will eliminate the current reimbursement rate which is a dispensing fee for each unit provided through a "unit dose dispensing system". The monthly fee shall be set after a review of current costs associated with unit dose dispensing has determined an appropriate level of reimbursement.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

The *Code of Virginia* (1950) as amended, §32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code also provides, in the Administrative Process Act (APA) §§2.2-4007 and 2.2-4013, for this agency's promulgation of proposed regulations subject to the Governor's review.

Pursuant to the regulatory review requirements of Executive Order 21(02), Periodic Review of Existing Regulations, DMAS reviewed its controlling regulations for its reimbursement of pharmacy services.

## Substance

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

The section of the State Plan for Medical Assistance that is affected by this action is Methods and Standards for Establishing Payment Rates-Other Types of Care: Reimbursement Methodology for Pharmacy Services (12 VAC 30-80-40).

This regulatory action is not mandated by either Federal or State law but, currently DMAS' definition of the term 'unit dose' is more restrictive than regulations promulgated by the Board of Pharmacy, thereby creating conflicts and barriers to the provision of services by enrolled pharmacists. The Board of Pharmacy has expanded its definition of unit dose to permit a maximum of 7 days' supply under its regulations. This action proposes to re-align the DMAS payment regulations with this Board of Pharmacy regulation.

Misunderstanding by providers of DMAS' current definition of a unit dose dispensing system has caused certain billing errors for prescription drugs. Standardization of this definition would allow dispensing to occur as determined to be safe and reasonable by the Virginia Board of Pharmacy.

Payment algorithms currently in use by DMAS, in its computerized claims processing system, are poorly understood by providers of "unit dose dispensing". Providers are over billing and are being overpaid for their unit dose services. As a consequence, DMAS is being required to re-process pharmacy claims which have already been processed and paid in error.

A single charge for this service, billed once monthly, would provide clear documentation that the pharmacy provider is certifying the use of unit dose products for the specific patient during the previous month, in accordance with the DMAS definition.

It is anticipated this regulation will be budget neutral.

## Alternatives

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

The current DMAS regulatory definition is more burdensome than this proposed definition because it allows only 24-hours worth of medication doses to be dispensed as a unit dose. The Board of Pharmacy has expanded its definition to permit a maximum of 7 days' supply under its regulations. Should that definition change, DMAS might again face further changes in the State Plan for Medical Assistance to conform with the regulations of the Board of Pharmacy. Conforming the DMAS regulation to that of the Board of Pharmacy is expected to facilitate pharmaceutical operations statewide by eliminating a conflicting policy.

## Family Impact Statement

*Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) 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; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The proposed regulation is not anticipated to have any impact on families.

It will not strengthen or erode the marital commitment, nor increase or decrease disposable family income.