Virginia Regulatory Town Hall

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Final Regulation
Agency Background Document

Agency name	DEPT. OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12VAC30-80
Regulation title	Methods and Standards for Establishing Payment Rates-Other Types of Care: Reimbursement for Pharmacy Services
Action title	Unit Dose
Document preparation date	7/18/2003; NEED GOV APPROVAL BY SEPT 2, 2003

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

This suggested regulatory action addresses two items regarding reimbursement for pharmacy services in Medicaid. It proposes to conform, for Medicaid reimbursement purposes, the definition of unit dose dispensing system to the definition employed by the Board of Pharmacy. It also proposes to change the reimbursement rate for the service of "unit dose dispensing" to a per capita monthly fee.

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 Regulatory Review Summary with the attached amended State Plan pages (12 VAC 30-80-40) and adopt the action stated therein. I hereby certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

7/18/2003
Date

/s/ Patrick W. Finnerty
Patrick W. Finnerty, Director

Dept. of Medical Assistance Services

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

If the final text differs from the text at the proposed stage, please indicate whether the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

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 adoption of final regulations subject to the Governor's review and approval.

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 and determined that modifications in pharmacy reimbursement were indicated.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This proposed changes have no immediate affect on the public's health, safety, and welfare but will ease administrative requirements for pharmacy providers. 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 current method of determining unit dose payments is administratively cumbersome and complex to calculate thereby rendering it subject to frequent errors that require manual, and expensive, corrections.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

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 that 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.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public.
If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage in the Commonwealth is the facilitation of pharmacy services due to the use of a consistent definition of unit dose dispensing for Medicaid recipients and non-Medicaid users of pharmacy services. Modifying the reimbursement computer algorithm to one dispensing payment per month will simplify the payment methodology thereby reducing claims processing errors and overpayments. The Commonwealth's pharmacy community supports this modification. This modification will be transparent to citizens of the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

There are no changes suggested in these final regulations to be adopted over those which were proposed for comment period.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

DMAS filed its proposed regulations with the Registrar of Regulations for publication in the May 5, 2003, *Virginia Register* (19:17, 5/5/2003, 2473-76). The comment period began on May 5th and ended on July 7th. The agency received no written comments about this proposed regulation.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Affected Subsection	Suggested Change
12 VAC 30-80-40	
Subsection 1	Technical correction to update name of federal funding agency.
Subsection 7	New definition of unit dose dispensing system to be consistent with the definition used by the Board of Pharmacy. Limit to one dispensing fee per month per nursing facility patient is also recommended.

Impact on family

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulatory action will not have any negative effects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities.