



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: EMILY MCCLELLAN
Regulatory Supervisor
Virginia Department of Medical Assistance Services

FROM: USHA KODURU *uk*
Assistant Attorney General

DATE: December 29, 2016

SUBJECT: 12 VAC 30-40-250 Fast-Track Regulation for Coverage in Supportive Housing (4734/7787)

I am in receipt of the attached regulation to provide Medicaid coverage to auxiliary grant recipients residing in approved housing. The number of auxiliary grant recipients in supportive housing shall not exceed 60. You have asked the Office of the Attorney General to review and determine if DMAS has the legal authority to promulgate this regulation and if the regulation comports with state and federal law.

Based on my review and pursuant to the House Bill 675 approved on March 29, 2016, it is my view that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Virginia Code §§ 32.1-324 and 325, has the authority to promulgate this regulation subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. This regulation will amend the State Plan; therefore, approval by the Centers for Medicare and Medicaid Services also will be required.

Pursuant to Va. Code § 2.2-4012.1, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, DMAS shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the

Emily McClellan
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normal promulgation process set out in this article with the initial publication of the Fast-Track regulation serving as the Notice of Intended Regulatory Action.

If you have any questions or need additional information about this regulation, please contact me at 786-4074.

cc: Kim F. Piner, Esquire

Attachment

Proposed Text

Action: CH 0040 Coverage in Approved Supportive Housing ...

Stage: Fast-Track

12/7/16 10:26 AM [latest] v

12VAC30-40-250. Standards for optional state supplementary payments.

Payment Category (Reasonable Classification)	Administered by		Income Level		Income Disregards Employed
	Federal	State	Gross 1 person/Couple	Net 2 person/Couple	
(1)	(2)		(3)	(4)	(5)
a) Aged, blind, disabled in domiciliary facilities	X		300% of SSI payment limit	Rate of home up to specified maximum of \$815 per month for allowance for an individual (effective 11/1/00). Maximum for homes in Planning District 8 increased by 45%. Rate of home up to a maximum of \$1219 per month. Maximum for homes in Planning District 8 is \$1402 per month.	Disregards of SSI Program

<p>b) Aged, blind, disabled in approved adult foster care homes</p>	<p>X</p>	<p>300% of SSI payment limit</p>	<p>Approved rate for home up to a maximum of \$508. Maximum for homes in Planning District 8 increased by 45%. Rate of home up to a maximum of \$1219 per month. Maximum for homes in Planning District 8 is \$1402 per month.</p>	<p>Disregards of SSI Program</p>
<p>c) Aged, blind, disabled in approved supportive housing</p>	<p>X</p>	<p>300% of SSI payment limit</p>	<p>Rate of home up to a maximum of \$1219 per month. Maximum for homes in Planning District 8 is \$1402 per month.</p>	<p>Disregards of SSI Program</p>