



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: **Meredith Lee**
Policy, Regulations, and Manuals Supervisor
Department of Medical Assistance Services

FROM: **Elizabeth M. Guggenheim**
Assistant Attorney General
Office of the Attorney General

DATE: **August 26, 2024**

SUBJECT: **Fast-Track Regulation – Complex Rehabilitation Technology, 12 VAC 30-50-165**

You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services has the statutory authority to promulgate this regulation and if it comports with applicable state law. I have reviewed the attached fast-track regulation posted to the Virginia Regulatory Town Hall that would provide reimbursement for the initial purchase or replacement of complex rehabilitative technology manual and power wheelchair bases and related accessories for patients who reside in nursing facilities, pursuant to revisions to Va. Code § 32.1-325.

Based on my review, it is my view that the Director of DMAS, acting on behalf of the Board of Medical Assistance Services under Virginia Code §§ 32.1-324 and 325, has the authority to amend this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

Under Virginia 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 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 these regulations, please contact me at 786-7363.

cc: Kim F. Piner, Esq.

Attachment