



Exempt Action Final Regulation Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation	12 VAC 30, Chapter -120, Sections 215, 720 and 920
Regulation title	Waivered Services: Mental Retardation (MR) Waiver; Individual and Family Developmental Disabilities Support (IFDDS) Waiver and Elderly or Disabled with Consumer Direction (EDCD) Waiver.
Action title	Personal Maintenance Allowance (PMA) Increase
Document preparation date	July 7, 2006

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006(A) of the of the Administrative Process Act (APA) (townhall.state.va.us/dpbpages/dpb_apa.htm), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act (leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4100), the *Virginia Register Form, Style, and Procedure Manual* (legis.state.va.us/codecomm/register/download/styl8_95.rtf), and Executive Orders 21 (02) and 58 (99) (governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)

Summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The Department of Medical Assistance Services was directed in Chapter 3, Special Session I, *2006 Acts of the Assembly*, Item MM to increase the personal maintenance allowance for certain Medicaid home and community-based services waivers, as follows:

MM. The Department of Medical Assistance Services shall amend all §1915(c) home and community-based care waivers, excluding the AIDS Waiver, and any related state regulations to set patient pay requirements at 165 percent of Supplemental Security Income for individuals enrolled in the waivers. The Department of Medical Assistance Services shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.

Statement of agency final 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 Agency Background Document with the attached amended non-State Plan regulations, Waivered Services (12 VAC 30-120-215; 12 VAC 30-120-720 and 12 VAC 30-120-920) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

Date

Patrick W. Finnerty, Director
Dept. of Medical Assistance Services

Substance

Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate.

The existing sections of the Virginia Administrative Code that are affected by this action are: Waivered Services (12 VAC 30-120-215; 12 VAC 30-120-720 and 12 VAC 30-120-920). Details of these mandatory changes are set forth below:

Medicaid waivers are designed to allow individuals who would otherwise qualify for institutional placement (in a nursing facility, an institution for the mentally retarded or a hospital) to remain in the community. Eligibility for Medicaid services is based upon an applicant's financial resources and income. In order to remain eligible for Medicaid services, enrollees must continue to meet certain financial resource and income limits. For Medicaid enrollees in home and community based waivers, these requirements include a basic needs allowance or personal maintenance allowance. This allowance is the amount the waiver enrollee is allowed to deduct from their income in order to pay for the basic expenses related to living in the community.

Currently, the personal maintenance allowance for a Medicaid recipient who is enrolled in a home and community based waiver is set at the Supplemental Security Insurance (SSI) payment standard. The 2006 General Assembly required DMAS to increase the personal maintenance allowance from the current level of 100% of the SSI payment for one person to 165% of the SSI payment for one person. This change represents an increase in the amount of income Medicaid will permit persons in home and community based waivers to retain in order to address their daily needs in the community.

Because the mandate of the General Assembly requires DMAS to make a very specific change in the personal maintenance allowance, the Agency has no discretion in implementing Chapter 302, Item MM of the 2006 General Assembly.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This final exempt regulatory action will not have any direct impact on the institution of the family and the stability of the family. It will not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; it will not encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, or one's children and/or elderly parents; nor will it strengthen or erode the marital commitment.