

REGULATORY REVIEW CHECKLIST

To accompany Preliminary Determination Package

Agency Department of Medical Assistance Services

Regulation title Non-Emergency Transportation as Administrative Expense

Purpose of the regulation To eliminate recipients' freedom of choice of providers in obtaining non-emergency transportation to medical services.

Summary of items attached:

- Item 1:** An explanation of the specific reason for the proposed regulation.
- Item 2:** A statement identifying the source of the agency legal authority to promulgate the contemplated regulations and a statement as to whether the contemplated regulation is mandated by state law or federal law or regulation, and, if mandated in whole or in part, a succinct statement of the source (including legal citation) and scope of the mandate. **(Be sure to attach a copy of all cited legal provisions).**
- Item 3:** A statement setting forth the reasoning by which the agency has concluded that the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function.
- Item 4:** A statement describing the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered or to be considered (to the extent known), and the reasoning by which the agency has rejected any of the alternatives considered.

/s/ Dennis G. Smith
Signature of Agency Head

8/9/1999
Date

VPS8/9/99
Date forwarded to
DPB & Secretary

PRELIMINARY JUSTIFICATION FOR REGULATORY ACTION
UNDER EXECUTIVE ORDER TWENTY-FIVE (98)

I. IDENTIFICATION INFORMATION

Regulation Name: Methods of Providing Transportation

Issue Name: Non-Emergency Transportation as Administrative Expense

VAC Numbers: 12 VAC 30-50-530

Registrar's Filing Deadline: _____

II. LEGAL AUTHORITY

Agency Legal Authority: Code of Virginia §§32.1-324 and 32.1-325; 42 U.S.C. §1396.

BMAS/Director Approval of Action: /s/ Dennis G. Smith 8/9/99
Dennis G. Smith Date

III. JUSTIFICATION

1. Statement of Reason for Regulation

Medicaid programs are federally required to cover transportation, by one of two methods, or a combination of the two, to ensure that Medicaid recipients have access to covered medical services. Federal regulations, at both 42 CFR §§ 431.53 and 440.170(a), permit this coverage in either of two ways, at the state's discretion: § 431.53 permits transportation coverage as an administrative expense; § 440.170(a) permits transportation coverage as a medical expense. Besides the slight difference in federal financial participation for this service (the administrative expense is federally reimbursed slightly higher), the most significant difference in these two alternatives is the amount of service coordination and management which is permitted by 42 CFR § 431.53.

DMAS currently covers transportation as a “medical service” which means that transportation is covered in a comparable manner to physician, pharmacy, and other Medicaid services. Under this arrangement, Medicaid recipients have “freedom of choice” of transportation providers. As defined under federal regulations, this means that recipients may select among transportation providers enrolled with DMAS for each trip to a Medicaid covered service. In FY97, DMAS reimbursed approximately \$35,527,000 for Medicaid recipients under this fee-for-service transportation.

The current transportation coverage has been subject to misuse and even abuse by recipients and transportation providers. DMAS has knowledge of the following: (i) recipients taking trips to non-covered Medicaid services; (ii) many single passenger trips where multiple passenger trips could be coordinated instead; (iii) trips where a more sophisticated type of transportation is utilized than the recipient needs (an ambulance instead of a bus, for example); (iv) trips to medical providers at considerable distances away while ignoring much closer medical providers; (v) and trip mileage being billed to DMAS which is higher than the actual mileage incurred.

DMAS proposes to instead cover transportation as an “administrative expense” under federal regulations except for emergency ambulance coverage that will remain unchanged. This administrative approach will allow for the extensive coordination of trips and possibly a reduction in DMAS transportation expenditures. DMAS will utilize a RFP contracting process to select contractors to coordinate trips and reimburse transportation services by regions of Virginia.

The contractors will be able to coordinate recipients’ trips under the administrative expense approach. This will allow many more trips to occur with multiple passengers in a vehicle than currently takes place. The contractor will also be able to manage the transportation to ensure it is only to Medicaid covered services, the type of transportation is suitable to the medical needs of the recipient, that closer medical providers are given consideration in planning trips, and that reported trip mileage is accurate.

The benefits to recipients are expected to be their easier access to services, in a more reliable, dependable manner. This transportation service coordination will also provide recipients with a complaint mechanism when transportation providers fail to keep appointments or provide less than satisfactory care.

Through a recent transportation pilot project, the benefits of a contractor coordinating transportation have been realized. These regulations expand on the findings of the pilot project and include the features of transportation covered as an administrative service under federal regulations.

2. Federal/State Mandate and Scope

The legal authority of the Agency to administer the Medicaid Program is as stated above. Title 42 CFR § 431.53 states that the Medicaid state plan must ensure necessary

transportation for recipients to and from providers of medical services. The State Plan must also describe the state's methods that meet this requirement.

3. Essential Nature of Regulation

This regulation is necessary for the efficient management of DMAS transportation coverage. DMAS is required to cover transportation and these regulations will allow for coordination of trips, which is expected to reduce DMAS expenditures for transportation services.

This regulatory action will not have any effects on local departments of social services. Some advocacy groups may object to this change on the grounds that it restricts recipients freedom-of-choice of providers. Also, some local Community Services Boards may object because, since becoming transportation providers for Medicaid, they may experience a reduction in their revenues.

4. Agency Consideration of Alternatives

The current transportation coverage as a medical service is the federally recognized alternative to this also-permitted federal alternative. It has been in place since the inception of the Virginia Medicaid program and allows for the Medicaid recipient to arrange for transportation with DMAS reimbursing the transportation provider. This arrangement has been less than adequate as described above.

5. Family Impact Assessment (Code of Virginia §2.1-7.2)

For those Medicaid families who always used the least expensive forms of Medicaid transportation, scheduled their doctor appointments back-to-back so several members went in one trip, only used the 'Medicaid taxi' to go to the closest doctor's office, these recipients will experience no change in their use of Medicaid transportation services.

But for those recipients who use the 'Medicaid taxi' to go to the grocery store, who demand an ambulance when a taxi would suffice, who choose to see a doctor whose office is located 100 miles away instead of one whose office is 25 miles from home and who use taxis several times a week for health care services, then these families will be affected by this proposed change. They will be required to change their habits of using Medicaid transportation services.