



# COMMONWEALTH of VIRGINIA

*Office of the Attorney General*

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120

Mark R. Herring  
Attorney General

## **MEMORANDUM**

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

**FROM:** ELIZABETH M. GUGGENHEIM  
Assistant Attorney General

**DATE:** October 19, 2020

**SUBJECT:** Exempt final regulations regarding Provider Reimbursement Changes, 12 VAC 30-70-301; 12 VAC 30-80-30; 12 VAC 30-90-264

I have reviewed the final exempt regulations that would affect specialized care operating rates, personal care rates, and a supplemental Disproportionate Share Hospital (DSH) payment for non-state government public acute care hospitals. You have asked the Office of the Attorney General to review the proposed regulations to determine if DMAS has the legal authority to promulgate the amended regulations as final exempt and if it would comport with state and federal law.

Based on that review, it is this Office's view that DMAS has the authority pursuant to the 2020 Appropriations Act, Item 313.HHHH, LLLL, and SSSS, subject to compliance with the provisions of Article 2 of the Administrative Process Act (APA), and has not exceeded that authority, pursuant to Virginia Code § 2.2-4006(A)(4)(a).

If you have any questions, please feel free to contact me at 786-2071.

cc: Kim F. Piner  
Senior Assistant Attorney General