



# COMMONWEALTH *of* VIRGINIA

*Office of the Attorney General*

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## MEMORANDUM

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

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

**DATE:** September 16, 2021

**SUBJECT:** Fast Track regulation package regarding repeal of Alzheimer's Assisted Living Waiver Regulations

I have reviewed the attached fast track regulation package, which would repeal the regulations associated with the Alzheimer's Assisted Living Waiver. Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Virginia Code § 32.1-324, has the authority to repeal the regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

Please be aware that this review is based solely upon whether DMAS has the legal authority to repeal these regulations, not the appropriateness of whether the regulations should be repealed pursuant to the fast track process. Pursuant to 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, the Department of Medical Assistance Services 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 any additional information, please feel free to contact me at 786-2071.

cc: Kim F. Piner  
Senior Assistant Attorney General