



Virginia  
Regulatory  
Town Hall

## Emergency Regulation Agency Background Document

<b>Agency Name:</b>	Department of Medical Assistance Services; 12 VAC 30
<b>VAC Chapter Number:</b>	Chapter 120
<b>Regulation Title:</b>	Managed Care
<b>Action Title:</b>	Medallion II
<b>Date:</b>	10/19/2001 ACTION NEEDED BY NOVEMBER 29, 2001

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

### Emergency Preamble

*Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).*

*Please include a brief summary of the emergency action. There is no need to state each provision or amendment.*

The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled Medallion II.

The Code § 2.2-4011 provides for regulations which an agency finds are necessitated by an emergency situation. To enable the Director, in lieu of the Board of Medical Assistance Services, to comply with changes in federal law, waiver and industry standards, he must adopt these regulatory changes as emergency regulations. This issue qualifies as an emergency regulation as provided for in § 2.2-4011 because it concerns a situation involving an imminent threat to public health. If the Agency cannot immediately promulgate these program changes as set out herein, it will be prohibited from proceeding with its planned expansions of its managed

care programs as has been approved by the Centers for Medicare and Medicaid Services (CMS) (formerly the Health Care Financing Administration (HCFA)). Such a failure to implement the federally approved changes would endanger the Agency's federal funding for this program and thereby risk the loss of health care services by the managed care Medicaid recipients. Consequently, this regulation may be adopted without public comment with the prior approval of the Governor.

Since this emergency regulation will be effective, beginning December 1, 2001, for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department is initiating the Administrative Process Act § 2.2-4007 procedures. Therefore, the agency is also requesting the Governor's approval to file its Notice of Intended Regulatory Action for these regulatory changes.

Chapter 1073 of the 2000 Acts of Assembly Item 319 K directed the Agency to seek federal approval of certain changes to its Medallion II programs. The purpose of the mandated changes was to bring this waiver program into compliance with recent federal law changes as well as other federal changes and changes to industry standards of practice.

**Basis**

*Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.*

*Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*

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The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 2.2-4011, for an agency's adoption of emergency regulations subject to the Governor's prior approval.

**Substance**

*Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement*

*should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

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The regulations affected by this action are Medallion II (12 VAC 30-120-360 through 12 VAC 30-120-420).

The purpose of implementing emergency regulations is to conform the regulations of the Medallion II waiver to federal law changes contained in the 1997 Balanced Budget Act, requirements of the Health Care Financing Administration (HCFA) (now the Centers for Medicare and Medicaid Services (CMS)), and state industry standards.

Based on changes enacted by the Balanced Budget Act of 1997, and new waiver requirements of CMS, the Agency is required to implement new program regulations. Also, as part of the approval of the Medallion II waiver modifications, the Agency must conform its regulations to Item 319J of Chapter 1073 of the 2000 Acts of Assembly. This language required the Agency to modify the process by which Medicaid recipients are enrolled into managed care programs.

Changes to the Medallion II regulations are being made for three reasons: (i) to permit one managed care organization (MCO) to operate in a region instead of the former two MCOs; (ii) to limit enrollees time to select a primary care provider to 30 days, and; (iii) to modify the pre-assignment process. These changes include:

Rescinding of 12VAC30-120-385. This provision of the regulation has expired. It previously provided a carve-out of mental health services for implementation in Northern Virginia. Without the repeal of this section, the Agency would be unable to implement managed care services in Northern Virginia and this would have an impact on the delivery of quality managed care services to citizens of Northern Virginia.

Shortening of the pre-assignment process - 12VAC30-120-370. The change would allow recipients to be enrolled into managed care sooner by reducing the waiting period, thereby increasing their access to quality health care. The shortening of the pre-assignment process was mandated in Chapter 1073 of the 2000 Acts of Assembly Item 319J.

Changes in choice of health plan type - 12VAC30-120-370. This change allows for recipients receiving managed care services in areas where there is only one contracted Managed Care Organization (MCO) to have a choice of enrolling with the contracted MCO or the Primary Care Case Management (PCCM) programs. All eligible recipients in areas where one contracted MCO exists, however, are automatically assigned to the contracted MCO. Individuals are allowed 90 days after the effective date of enrollment to change from either the contracted MCO to the PCCM program or vice versa. This change in provision of the regulation would comply with waiver approval recently received by CMS and allow the Agency to implement the expansion of the MCO program. Without this change, the mandated expansion cannot proceed.

<u>VAC Citation:</u>	<u>Change in ER:</u>	<u>ER Feature:</u>
12 VAC 30-120-360	Added language to emergency services definition to include participating and non-participating providers; clarifies definition to ensure access to care	Ensures access to care in emergency situations; one HMO per region
	Added definition of Managed Care Organization and PCCM	One HMO in a region
12 VAC 30-120-370 B 7 through B 8, 11, 12, 13, D 3	Change HMO to MCO; Changes pre-assignment days from 45 to 30	One HMO in a region; shortens the time period for MCO selection
12 VAC 30-120-370 D 4 through E3	Change HMO to MCO	One HMO in a region
12VAC30-120-370 E 4	Added language for one MCO per region	One HMO in a region
12VAC30-120-370 F through H	Change HMO to MCO or PCCM	One HMO in a region
12VAC 30-120-380 A & B	Change HMO to MCO or PCCM; Language deleted relating to Emergency services	One HMO in a region; relates to provision of and access to emergency services
12VAC 30-120-380 D through G and L	Change HMO to MCO	One HMO in a region
12VAC30-120-380 K	Deletes language relating to case management	
12 VAC 30-120-385	Repeals language in order to implement Northern Virginia Medallion II	One HMO in a region
12 VAC 30-120-390	Change HMO to MCO	One HMO in a region
12 VAC 30-120-395	Change HMO to MCO	One HMO in a region
12 VAC 30-120-400 A through C	Change HMO to MCO	One HMO in a region
12 VAC 30-120-410 B through F	Change HMO to MCO	One HMO in a region
12 VAC 30-120-420 A	Change HMO to MCO	One HMO in a region

through M		
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**Alternatives**

*Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.*

Some of the policies contained herein have either been mandated to the agency by the General Assembly, thereby eliminating discussions of possible alternative policies. Other changes are intended to conform the agency’s policies to a series of federal law changes. Failure to update the regulations will place the Agency out of compliance for the operation of the managed care programs and the Agency will be unable to implement the pending expansion. Failure to expand will impact the projected budget savings and will have a negative monetary result on the agency and the Commonwealth.

**Family Impact Statement**

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The managed care programs were created for the purposes of improving access to care, promoting disease prevention, ensuring high quality healthcare, and reducing Medicaid expenditures. The MEDALLION and Medallion II programs have proven to produce better medical outcomes and promote the physician/patient relationship, promote the use of preventive care and improved patient education while reducing the inappropriate use of medical services. As indicated in independent evaluations, these programs have become accepted and successful programs for managing health care in the Commonwealth.

Beneficiaries are generally pleased with their access to care and satisfied with the quality of medical care received. According to the 1999 Recipient Household Survey conducted by the Keystone Peer Review Organization, 85.8% of Medallion II adults and 83.3% of MEDALLION adults were satisfied with their health plan. The satisfaction rates for children from the MEDALLION, Medallion II, and Children's Medical Security Insurance Plan (CMSIP) programs ranged from 83 percent to 93 percent. The increased use of managed care has been demonstrated to improve the efficiency, quality, and access to care for the current Medicaid population.

Implementation of the new regulations would allow the citizens of the Commonwealth to continue receiving quality health care through the expansion of managed care; allowing exemptions under specific circumstances for children with special health care needs; allowing recipients to receive services under managed care earlier, thereby establishing the physician/patient relationship, and allowing pregnant women to receive quality prenatal care earlier.

Only to the extent that these managed health care programs provide improved quality of care will this regulatory action have any impact on the institution of the family and family stability including strengthening or eroding the authority and rights of parents in the education, nurturing, and supervision of their children; encouraging or discouraging economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents, strengthening or eroding the marital commitment; and increasing or decreasing disposable family income.