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Exempt Action Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation(s)	12 VAC <u>30-70 and 30-80</u>
Regulation title(s)	Methods and Standards for Establishing Payment Methodologies— Inpatient Hospital Services; Methods and Standards for Establishing Payment Methodologies – Other Types of Care
Action title	No Inflation Increases for Inpatient Hospital Services, Home Health Services, Outpatient Rehab Services and Durable Medical Equipment Competitive Bid Reduction
Final agency action date	
Date this document prepared	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, 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, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulatory action amends the Virginia Administrative Code to conform it to several mandates in Chapter 2 of the *2014 Special Session I of the Acts of the Assembly*, Item 301 CCC, XXX, JJJJ. These mandates require that DMAS: (i) eliminate hospital inflation for FY 2015 and 2016 as applied to inpatient hospital operating rates, graduate medical education, and disproportionate share payments; (ii) pay rates for durable medical equipment items subject to

the Medicare competitive bidding program; and (iii) eliminate inflation for outpatient rehabilitation agencies and home health agencies for FY 2015 and FY 2016.

Statement of final agency 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 Summary with the attached amended regulations, 2014 No Inflation and Rate Reduction Mandates (12 VAC 30-70-351; 12 VAC 30-80-30; 12 VAC 30-80-180; 12 VAC 30-80-200) etc. and adopt the action stated therein. I certify that this final exempt regulatory action has completed all the requirements of § 2.2-4006(A) of the *Code of Virginia* (Administrative Process Act).

3/2/2015

/s/ Cynthia B. Jones

Date

Cynthia B. Jones, Director

Dept. of Medical Assistance Services

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services.

Chapter 2 of the *2014 Special Session I of the Acts of the Assembly*, Item 301 CCC, XXX, JJJJ mandated that DMAS: (i) eliminate the inflation adjustment for inpatient hospital operating rates, graduate medical education payment and disproportionate share hospital payments; (ii) amend the reimbursement rate for durable medical equipment subject to the Medicare competitive bidding program equal to the lower of the current DMMERC minus 10 percent or the average of the Medicare competitive bid rates in Virginia markets; (iii) eliminate the inflation adjustment for home health agencies, and; (iv) eliminate the inflation adjustment for outpatient rehabilitation agencies and comprehensive outpatient rehabilitation facilities.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

The sections of the State Plan for Medical Assistance affected by this action are: (i) Methods and Standards for Reimbursing Inpatient Hospital Services (12 VAC 30-70) and Methods and Standards for Reimbursing for Other Types of Care (12 VAC 30-80).

CURRENT POLICY

This section of the Virginia Administrative Code (12 VAC 30-70-351) currently provides for updating rates for inflation for hospital operating rates, disproportionate share payments and graduate medical education payments.

RECOMMENDATIONS

As a result of the mandates set out in Chapter 2 of the *Special Session I of the 2014 Acts of the Assembly Item 301 CCC*, DMAS is recommending the removal of the inflation provisions from 12 VAC 30-70-351.

CURRENT POLICY

This section of the Virginia Administrative Code (12 VAC 30-80-30) currently provides for the Commonwealth's method of reimbursing for durable medical equipment (DME) services. For DME that has a Durable Medical Equipment Regional Carrier (DMERC) rate, DMAS reimburses the DMERC rate minus 10%. For those items that do not have a DMERC rate, DMAS reimburses the state agency fee schedule amount. If the DME item has no DMERC rate nor an agency fee schedule rate, the reimbursement is the manufacturer's charge to the DME provider, less shipping and handling, plus 30%.

RECOMMENDATIONS

As a result of the mandates set out in Chapter 2 of the *Special Session I of the 2014 Acts of the Assembly Item 301 XXX*, DMAS is recommending for dates of service on or after July 1, 2014, that DME items subject to the Medicare competitive bidding program be reimbursed the lower of the current DMERC rate minus 10% or the average of the Medicare competitive bid rates in Virginia markets.

This VAC section also provides that the agency's rates for clinical laboratory services set as of July 1, 2014, will control such payments.

CURRENT POLICY

This section of the Virginia Administrative Code (12 VAC 30-80-180 E) currently provides for updating rates for inflation for home health services.

RECOMMENDATIONS

As a result of the mandates set out in Chapter 2 of the *Special Session I of the 2014 Acts of the Assembly Item 301 JJJ*, DMAS is recommending the elimination of inflation increases for FYs 2015 and 2016 for home health agencies.

CURRENT POLICY

This section of the Virginia Administrative Code (12 VAC 30-80-200 E) currently provides for updating rates for inflation for rehabilitation agencies and comprehensive outpatient rehabilitation facilities.

RECOMMENDATIONS

As a result of the mandates set out in Chapter 2 of the *Special Session I of the 2014 Acts of the Assembly Item 301 JJJ*, DMAS is recommending the elimination of inflation increases for FYs 2015 and 2016 for rehabilitation agencies and comprehensive outpatient rehabilitation facilities.

Family Impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory 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.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; nor 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. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.