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Fast-Track Regulation Agency Background Document

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| Agency name | Department of Medical Assistance Services |
| Virginia Administrative Code (VAC) citation(s) | 12 VAC 30-80-110 |
| Regulation title(s) | Fee-for-Service: Case Management |
| Action title | Reimbursement for Targeted Case Management |
| Date this document prepared | 11/10/2015 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 will incorporate into the Virginia Administrative Code the reimbursement methodology for targeted case management for: 1) high risk pregnant women, infants, and children up to age two; 2) seriously mentally ill adults, emotionally disturbed children, or youth at risk of serious emotional disturbance; 3) individuals with intellectual disability; and 4) individuals with developmental disability.

In addition, references to community mental health services in the targeted case management section have been removed. Community mental health services and regulations included targeted case management in the past, but both the services and regulations have been changed to

remove those references. References to community mental health services are now being removed from these case management regulations to remove the conflict between the sections.

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 Regulatory Review Summary entitled Reimbursement for Targeted Case Management with the attached amended regulations (12 VAC 30-80-110) and adopt the action stated therein. I certify that this fast track regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012.1, of the Administrative Process Act.

11/10/2015

/signature/

Date

Cynthia B. Jones, Director

Dept. of Medical Assistance Services

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person'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.

Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. **Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens.** Discuss the goals of the proposal and the problems the proposal is intended to solve.*

The purpose of this action is to incorporate into the Virginia Administrative Code the current reimbursement practices for targeted case management. The reimbursement methodologies were

required and approved by the Centers for Medicare and Medicaid Services effective September 10, 2013, and have been in place since that time.

In addition, references to community mental health services that used to include targeted case management (but no longer do) have been removed to correct a conflict between the community mental health and the case management regulations.

Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

This regulatory action is being promulgated as a fast track action because it is expected to be non-controversial. The reimbursement practices contained in this regulation have been in place since September, 2013, and were required and approved by CMS.

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.

Currently, the Virginia Administrative Code does not include information on reimbursement practices for targeted case management for: 1) high risk pregnant women, infants, and children up to age two; 2) seriously mentally ill adults, emotionally disturbed children, or youth at risk of serious emotional disturbance; 3) individuals with intellectual disability; and 4) individuals with developmental disability.

This regulatory action describes the reimbursement practices for each of these types of targeted case management. The regulations contain:

- A description of how reimbursement for each service is calculated;
- A description of the unit of service;
- A statement that private and governmental providers are reimbursed according to the same methodology;
- A prohibition of billing of overlapping case management services;
- A requirement for providers to maintain information to support future rate updates.

Including this information in the Virginia Administrative Code will make these reimbursement practices transparent to Medicaid providers, Medicaid members, and the public.

In addition, references to community mental health services that used to include targeted case management (but no longer do) have been removed to correct a conflict between the community mental health and the case management regulations.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage of this regulatory action is that it will make current DMAS reimbursement practices for targeted case management transparent to Medicaid providers, Medicaid members, and the public. The changes will also remove a conflict between community mental health and targeted case management regulations. This regulatory action does not create any disadvantages to the public, the agency, or the Commonwealth, as it does not contain any changes to reimbursement practices that have been in effect since September, 2013.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements more restrictive than federal contained in these recommendations.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There will be no localities that are more affected than others as these requirements will apply statewide.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods that would accomplish the objectives of this action. This action is expected to have no impact on small businesses as it does not represent a change from current practice. Instead, it merely describes current practice in the Virginia Administrative Code.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

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| <p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p> | <p>No cost to add a description of current reimbursement practices to the VAC.</p> |
| <p>Projected cost of the new regulations or changes to existing regulations on localities.</p> | <p>No cost to localities from adding a description of current reimbursement practices to the VAC. There is no cost to localities for Medicaid reimbursement of targeted case management services.</p> |
| <p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p> | <p>No individuals, businesses, or other entities will be affected by adding current reimbursement practices to the VAC.</p> |
| <p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p> | <p>Most providers of targeted case management are public agencies (community services boards and the Virginia Department of Health). Most support coordinators (who provide targeted case management for individuals with developmental disabilities) are small private providers. As of October 1, 2015, there are 98 support coordinator providers.</p> |
| <p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p> | <p>There are no new costs to individuals, businesses, or other entities to add current reimbursement practices to the VAC.</p> |
| <p>Beneficial impact the regulation is designed to produce.</p> | <p>This action will make current reimbursement practices more transparent.</p> |

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Alternative methods to notify the public about reimbursement practices for targeted case management include Medicaid Memos and Provider Manuals. However, these are commonly made available only to Medicaid providers, and are not easily referenced by Medicaid members or members of the public. Adding these reimbursement practices to the Virginia Administrative Code is the best and least burdensome method of providing transparency for these practices.

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.

Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please list separately: (1) all differences between the **pre-emergency** regulation and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.*

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change, intent, rationale, and likely impact of proposed requirements |
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| 30-80-110 | | Includes a paragraph (A) that includes general targeted case management reimbursement | Paragraph (A) is out of date and is removed. |

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| | | <p>rules.</p> <p>Includes reimbursement processes in paragraph (B) for targeted case management for early intervention (Part C) children.</p> <p>In paragraph (B)(2) includes references to case management as a part of intensive community treatment services and intensive in-home services.</p> | <p>Makes paragraph (B) into paragraph (A).</p> <p>Removes paragraph 2 in the newly re-lettered section A as the VAC has been amended (in 12VAC30-50-130 and 12VAC30-50-226) to remove case management as a component of intensive community treatment and intensive in-home services.</p> <p>Inserts a new paragraph (B) on reimbursement for targeted case management for high risk pregnant women and infants and children under age 2.</p> <p>Inserts a new paragraph (C) on reimbursement for targeted case management for seriously mentally ill adults and emotionally disturbed children and for youth at risk of serious emotional disturbance.</p> <p>Inserts a new paragraph (D) on reimbursement for targeted case management for individuals with intellectual disability and individuals with developmental disability.</p> |
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