



**COMMONWEALTH of VIRGINIA**  
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*Richmond 23219*

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**TO: BRIAN MCCORMICK**  
Regulatory Supervisor  
Virginia Department of Medical Assistance Services

**FROM: USHA KODURU**  
Assistant Attorney General

**DATE: January 12, 2009**

**SUBJECT: Fast Track Regulation to Amend Regulations for the Health Insurance Premium Program**

I am in receipt of the attached regulation to amend regulations relating to the Health Insurance Premium Program to change the participation requirement from a mandatory requirement and a condition of Medicaid eligibility, to an optional program. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services (“DMAS”) has the legal authority to promulgate the regulation and if the regulation comports with state and federal law.

Based on that review, it is my view that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Va. Code §§ 32.1-324 and 325, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

These regulations remove the mandatory requirement; however, 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, DMAS 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.

Brian McCormick  
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If you have any questions or need additional information about these regulations, please contact me at 786-4074.

cc: Kim F. Piner, Esquire

Attachment