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Proposed Regulation Agency Background Document

Agency name	DEPT. OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30, Chapter 50
Regulation title	Amount, Duration and Scope of Services: School Health Services;
Action title	School Health Services
Document preparation date	

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

This regulatory action is a response to the 2003 Appropriations Act, Items 325 XX and EEE, which require DMAS to expand school health services. In this action, DMAS proposes to expand Medicaid coverage of school health services to include: audiology services, medical evaluation services, school health assistant services, and transportation services. All health services will be strictly tied to the student's Individualized Educational Program (IEP). This proposed regulation modifies program requirements for prior authorization and the ordering of services.

Basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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 also provides, in the Administrative Process Act (APA) §§2.2-4007 and 2.2-4013, for this agency's promulgation of proposed regulations subject to the Governor's review and approval.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail 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 proposed action is to expand coverage of school health services. Since school divisions are already under a federal mandate to provide the services covered by this regulation, it is in the interests of the Commonwealth and its citizens to secure whatever additional funding may be available for those services. Expanding Medicaid-covered school health services will give greater opportunity to Virginia students to have healthier lives. Offering these services through the Medicaid program eases the burden on the Commonwealth's citizens to address the medical and educational needs of Virginia students. Therefore, this proposed action is expected to have a significant and positive impact on the health, safety, and welfare of the citizens of the Commonwealth.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The sections of the State Plan for Medical Assistance that are affected by this action are: Skilled Nursing Facility Services, EPSDT, and Family Planning [Supplement 1 to Attachment 3.1-A&B (12 VAC 30-50-130)], School Health Services [Supplement 1 to Attachment 3.1-A&B (12 VAC 30-50-229.1)], and Methods of Providing Transportation [Attachment 3.1D (12 VAC 30-50-530)]. A subsection covering school health assistant services is being added to 12 VAC 30-50-130 (Skilled Nursing Facility Services, EPSDT, and Family Planning). A section covering transportation as a necessary supplemental service to school health services is being added to 12 VAC 30-50-530 (Methods of Providing Transportation).

Skilled Nursing Facility Services, EPSDT, and Family Planning, School Health Services (12 VAC 30-50-130 and 30-50-229.1), and Methods of Transportation (12 VAC 30-50-530).

The federal *Individuals with Disabilities Education Act* (IDEA) requires school divisions to offer all special education and related services to children with one or more of thirteen specified disabilities. Federal funds are authorized under IDEA for the services, but the majority of the

funds have historically been from state and local revenues. Code of Virginia § 32.1-326.3 requires that DMAS maximize access to health care for poor special education students. The expanded services set forth in this proposed regulation will help school divisions meet the requirements of IDEA and meet the requirements of Va. Code § 32.1-326.3. The health services offered include audiology services, medical evaluation services, school health assistant services, psychiatric/psychological services, and transportation to and from the school campus where necessary to obtain services listed in the student’s Individualized Education Program (IEP). In addition, EPSDT screenings are being eliminated, and medical evaluation services will now be reimbursed only for children who are not in managed care. Coverage for psychiatric and psychological evaluation and therapy services is being extended to include services rendered by providers endorsed by the Board of Education as school social workers.

The services set forth in this proposed regulation are currently provided by Virginia school divisions to children in special education and represent an expansion of DMAS school health services coverage. Consistent with other DMAS covered school-based services for children in special education, the DMAS reimbursement will be the federal share of the payment only with the school division documenting the non-federal matching share. These changes also reduce constraints cited by the school divisions in billing DMAS for services. In particular, service limits and prior authorization for services are removed and school health professionals, other than physicians, may authorize services.

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 advantages to the public are a significant savings to the Commonwealth and school divisions and enhanced access to health services for Virginia students. There are no disadvantages to the public or the Commonwealth.

Financial impact

Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information:

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	No General Funds. Only federal funds will be appropriated.
Projected cost of the regulation on localities	Minimal administrative costs are projected to localities (<i>i.e.</i> local school divisions); this regulation change is projected to provide significant new overall revenues to local school divisions. Although not included in this

	regulatory package, corresponding changes to school health services will be made to the Family Access to Medical Insurance Security (FAMIS) program, giving rise to similar marginal administrative costs.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Public school divisions.
Agency's best estimate of the number of such entities that will be affected	Approximately 130.
Projected cost of the regulation for affected individuals, businesses, or other entities	No net costs to any individuals, businesses or other entities; this regulation is projected to add significant resources to local school divisions to provide greater services to recipient families (including those in FAMIS) with public school children.

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.

DMAS and the Department of Education staff, with consultation from school division staff, met over the course of a year to discuss adding coverage for particular school services and reducing unnecessary program requirements in order to address the mandate from the General Assembly to increase Medicaid coverage of services. The services included in this regulatory package were seen as the most necessary to include under Medicaid coverage for children in special education, and as services that the school divisions could bill with the least burdensome changes to their delivery of services. After consultation with the Centers for Medicare and Medicaid, DMAS removed portions of the preceding emergency regulations providing coverage for health assessment services, and limited the provision of medical evaluation services to those children who are not in managed care. In addition, sections addressing school health assistant services and transportation services were removed from the rehabilitation section of 12 VAC 30-50-229.1, and placed under EPSDT (school health assistants) and Methods of transportation, respectively.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

DMAS' Notice of Intended Regulatory Action was published in the July 28, 2003, *Virginia Register* (VR 19:23) for their public comment period from July 28th through August 27, 2003. No comments were received.

Impact on family

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulatory action will not have any negative effects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities. These regulatory changes are expected to have a positive impact on recipient families since the projected revenue increase to local school divisions will enable local public schools to provide greater services to their students.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

The substantive changes to existing regulations are as follows:

Current section number	Current requirement	Proposed change and rationale
12VAC30-50-130	Provides for screening services, vision services, dental services, hearing services, and such other necessary health care services pursuant to an EPSDT screening.	Adds School health assistant services under EPSDT and sets out all provisions pertaining to these services, including authorization for services and utilization review.
12VAC30-50-229.1	Prior to the Emergency Regulation on this same subject of 7/1/03, school divisions offered EPSDT screenings, nursing services, psychiatric and psychological screenings, physical therapy and related services, skilled nursing services and well child screenings. Services were subject to limits and prior authorization. Only physicians and licensed nurse practitioners were able to order services.	Under the Emergency Regulation and this Proposed regulation, school divisions are expanding services to include audiology and medical evaluation. Service limits and prior authorization requirements will be eliminated. This package also allows the Individualized Education Program (IEP) to serve as the authorization for these services. In addition, EPSDT screenings are being eliminated, and medical evaluation services are provided to children who are not in managed care. Coverage for psychiatric and psychological evaluation and therapy services is being extended to include services rendered by providers endorsed by the Board of Education as school social workers.

12VAC30-50-530	Provides for necessary transportation for recipients to travel to and from providers of covered medical services. Emergency transport is covered as a medical service; all other transport is covered as an administrative expense.	Adds in transportation services provided by school divisions for special education students where the IEP authorizes transportation for covered services. Includes description of the type of transport that may be reimbursed.