



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: RENEE WHITE
Regulatory Coordinator
Department of Medical Assistance Services

FROM: REATHA B. KAY
Special Counsel to DMAS

DATE: December 16, 2005

SUBJECT: Proposed Fast-Track Regulations concerning Revisions to certain Medicaid and Family Access to Medical Insurance ("FAMIS") Prior Authorization Requirements

I have reviewed the attached proposed regulations regarding changes to the prior authorization requirements for outpatient psychiatric services as well clarifications to the prior authorization requirements for non-emergency, outpatient Magnetic Resonance Imaging, Positron Emission Tomography, and Computerized Axial Tomography scans under the Medicaid and FAMIS programs.

Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Va. Code § 32.1-324, and pursuant to § 32.1-351, has the authority to promulgate these regulations to the Medicaid and FAMIS regulations respectively, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. 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, the

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Department of Medical Assistance Services 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.

If you have any questions or need any additional information, please feel free to call me at 786-1841.

cc: Kim F. Piner, Esquire

Attachment