



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory and Manual Section Manager
Department of Medical Assistance Services

FROM: ELIZABETH A. MCDONALD
Special Counsel to DMAS

DATE: January 14, 2010

**SUBJECT: Final Exempt Regulation – No Co-Pays for Pregnancy-Related Services
(12 VAC 30-141-160)**

I have reviewed the attached final exempt regulation that would prohibit copayments from being required for services to pregnant females related to the pregnancy. You have asked the Office of the Attorney General to review and determine if DMAS has the legal authority to promulgate the final exempt regulation and if it comports with state and federal law.

Based on that review, it is this Office's view that DMAS has the authority, subject to compliance with the provisions of Article 2 of the Administrative Process Act (APA), and has not exceeded that authority.

This regulation is required by the Children's Health Insurance Reauthorization Act of 2009 (CHIPRA), Public Law 111-3, Section 111(a). It is my view that the promulgation of this regulation is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Virginia Code § 2.2-4006(A)(4)(c).

If you have any questions, please feel free to contact me at 786-7363.

cc: Kim F. Piner
Senior Assistant Attorney General

