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MEMORANDUM

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

FROM: **JENNIFER L. GOBBLE**
Special Counsel to DMAS

DATE: December 13, 2010

SUBJECT: Proposed Regulations – Durable Medical Equipment and Supplies

I have reviewed the attached proposed regulations concerning updates and clarifications to the current regulations for durable medical equipment and supplies.

Based on that review, it is my view that the Director of the Department of Medical Assistance Services, acting on behalf of the Board pursuant to Virginia Code § 32.1-324, 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.

Virginia Code §§ 32.1-324 and 32.1-325 grant to the Board of Medical Assistance Services the authority to prepare and amend the state plan for Medical Assistance and authorizes the Director of DMAS to amend and administer the state plan for Medical Assistance according to the Board's requirements. Several of the changes in these proposed regulations were first made by the promulgation of emergency regulations. These changes will enable the Director, in lieu of the Board of Medical Assistance Services, to comply with the mandate of the General Assembly in Chapter 874, Item 297 UUU and WWW of the 2010 Appropriations Act. Further changes are included in these proposed regulations to clarify the requirements and incorporate longstanding agency policies into the regulations. These changes are made pursuant to the Director's authority to administer and amend the state plan for Medical Assistance.

If you have any questions or need additional information, please feel free to contact me at 786-4905.

cc: Kim F. Piner
Senior Assistant Attorney General