



COMMONWEALTH of VIRGINIA
Office of the Attorney General
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TO: BRIAN MCCORMICK
Regulatory Supervisor
Virginia Department of Medical Assistance Services

FROM: USHA KODURU
Assistant Attorney General

DATE: February 5, 2013

SUBJECT: Emergency Regulations to Repeal the MEDALLION Primary Care Case Management Program (3769/6286)

I am in receipt of the attached regulations to repeal the MEDALLION primary care case management (PCCM) program as a result of expanding the managed care program throughout the Commonwealth. You have asked the Office of the Attorney General to review and determine if 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 Virginia Code §§ 32.1-324 and 325, has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

The authority for this emergency action is found in Va. Code § 2.2-4011. Chapter 3, Item 307 N of the 2012 Acts of Assembly grants DMAS the authority to promulgate these regulations. Accordingly, these regulations qualify for the “emergency” exemption from Article 2 requirements. A Notice of Intended Regulatory Action relating to the proposed replacement regulations must be filed with the Registrar within sixty days of the effective date of the emergency regulations, and appears to already have been so filed at the same time as the emergency regulations. The proposed replacement regulations must be filed with the Registrar

Brian McCormick

February 5, 2013

Page 2

within 180 days after the effective date of the emergency regulations. This regulation will amend the State Plan; therefore, approval by the Centers for Medicare and Medicaid Services also will be required.

If you have any questions or need additional information about this regulation, please contact me at 786-4074.

cc: Kim F. Piner, Esquire

Attachment