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MEMORANDUM

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

FROM: **ELIZABETH M. GUGGENHEIM** *EMG*
Assistant Attorney General

DATE: **April 4, 2014**

SUBJECT: **Exempt Final Regulations regarding methods and standards for establishing payment rates for in-patient hospital care**

I have reviewed the attached final exempt regulations that would provide for rate changes for in-patient hospital care. You have asked the Office of the Attorney General to review the proposed regulations to determine if DMAS has the legal authority to promulgate the regulations as final exempt and if they comport 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.

The regulations are required by Items 307CCCC, 307DDDD, and 307OOOO of the 2013 Appropriations Act. It is my view that the promulgation of these regulations is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Virginia Code § 2.2-4006(A)(4)(a).

If you have any questions, please feel free to contact me at 786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General