



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: August 8, 2005

**SUBJECT: Proposed Regulations concerning Home and Community Based Services
Mental Retardation Waiver ("MR Waiver")**

I have reviewed the attached proposed regulations that make modifications to the current regulations governing DMAS' MR Waiver.

Based on that review, it is this Office's view that the Director, acting on behalf of the Board pursuant to Va. 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. The amendments to the regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to amend the MR Waiver. The changes were first made by the promulgation of emergency regulations, and were approved by this Office in a memorandum, dated September 9, 2004.

The authority for the previously promulgated emergency regulation is the 2004 Appropriation Act (2004 Acts of Assembly, chapter 4) Item 326(PP). These regulations will ensure that DMAS complies with this mandate of the General Assembly.

Renee White
August 8, 2005
Page 2

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