Virginia Regulatory Town Hall

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Exempt Action Final Regulation
Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30-10
Regulation title	Exclusion of Providers and Suspension of Practitioners and Other Individuals
Action title	Managed Care Provider Exclusion
Final agency action date	
Document preparation date	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The section of the State Plan for Medical Assistance that is affected by this action is the CMS-mandated preprinted page 78 a Sec. 4.30 Exclusion of Providers and Suspension of Practitioners and Other Individuals (12 VAC 30-10-690) subsection (b)(2)).

This action incorporates into the Virginia Administrative Code (VAC), for the purpose of maintaining the necessary consistency between the VAC and the State Plan for Medical Assistance Services, language issued by the Centers for Medicare and Medicaid Services to be included in the State Plan. The language establishes DMAS' compliance with § 1932(d)(1) of the *Social Security Act* and 42 CFR § 438.610 prohibiting managed care organizations from having affiliations with individuals who have been suspended or otherwise excluded from federal health care programs.

'The state plan consists of written documents furnished by the state to cover each of its programs under the Act including the medical assistance program (title XIX). After approval of the original plan by HHS, all relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, are required to be submitted currently so that HHS may determine whether the plan continues to meet Federal requirements and policies' for the purpose of claiming federal financial participation. *State Medicaid Manual* Part 13 (HCFA-Pub. 45-13)

This *State Medicaid Manual* language is consistent with 42 CFR § 430.12(c). CMS typically distributes state plan preprint page modifications to the states via program memoranda, action transmittals and letters directed to state Medicaid program directors.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services.

Pursuant to the authority of the *Code of Virginia* (1950) as amended, § 2.2-4006(A)(4)(c) permits the agency adoption, without public comment, of regulatory actions in conformance to federal requirements where no agency discretion is involved. DMAS was afforded no discretion in whether or not to include this text in its State Plan for Medical Assistance nor was it permitted by CMS to modify this text.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background document with the attached amended State Plan pages entitled Managed Care Provider Exclusion (12VAC30-10-690) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

_____ _____

Date

Patrick W. Finnerty, Director

Dept. of Medical Assistance Services

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.

Medicare

State Medicaid Manual

Part 13 - State Plan Procedures and Reprints

U.S. Department of Health and Human Services
Health Care Financing Administration
HCFA Pub. 45-13 Thru Rev. 2
Reprint Date (7/89)

13025. STATE PLANS AND PLAN AMENDMENTS--GENERAL

The State plan is a comprehensive statement submitted by the State agency describing the nature and scope of its program and giving assurance that it will be administered in conformity with the specific requirements stipulated in the pertinent title of the Act, and other applicable official issuances of the Department of Health and Human Services (HHS). The State plan contains all information necessary for the Department to determine whether the plan can be approved, as a basis for Federal financial participation in the State program.

13026. APPROVAL OF STATE PLANS AND AMENDMENTS

The State plan consists of written documents furnished by the State to cover each of its programs under the Act including the medical assistance program (title XIX). After approval of the original plan by HHS, all relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, are required to be submitted currently so that HHS may determine whether the plan continues to meet Federal requirements and policies.

A. Submittal.--State plans and revisions of the plans are submitted first to the State governor or his designee for review and then to the HCFA regional office. The States are encouraged to obtain consultation of the regional staff when a plan is in process of preparation or revision.

B. Review.--Staff in the regional offices are responsible for review of State plans and amendments. They also initiate discussion with the State agency on clarification of significant aspects of the plan which come to their attention in the course of this review. State plan material on which the regional staff has questions concerning the application of Federal policy is referred with recommendations as required to the HCFA central office for technical assistance. Comments and suggestions, including those of consultants in specified areas, may be prepared by the central office for use by the regional staff in negotiations with the State agency.

C. Action.--The Regional Administrator exercises delegated authority to take affirmative action on State plans and amendments thereto on the basis of policy statements or precedents previously approved by the Administrator. The Administrator retains authority for determining that proposed plan material is not approvable, or that a previously approved plan no longer meets the requirements for approval, except that a final determination of disapproval may not be made without prior consultation and discussion by the Administrator with the Secretary. The Regional Administrator or the Administrator formally notifies the State agency of the actions taken on State plans or revisions.

D. Basis for Approval.--Determinations as to whether State plans (including plan amendments and administrative practice under the plan) originally meet or continue to meet the requirements for approval are based on relevant Federal statutes and regulations. Guidelines are furnished to assist in the interpretation of the regulations.

E. Prompt Approval of State Plans and Plan Amendments.—Pursuant to section 1915 of the Act, the determination as to whether a State plan submitted for approval conforms to the requirements for approval under the Act and regulations issued pursuant thereto shall be made promptly and no later than the 90th day following the date on which the plan submittal is received in the regional office. The State plan or plan amendment will be deemed approved unless the Secretary within the 90-day period, either approves, disapproves or requests additional information, in writing, which is needed to make a final determination on the submittal. After the Secretary receives the additional information, the plan or plan amendment will be deemed approved unless the Secretary, within 90 days of such date, either approves or disapproves the plan or plan amendment.

F. Effective Date.—The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted, and with respect to expenditures for assistance under such plan, may not be earlier than the first day on which the plan is in operation on a statewide basis. The same applies with respect to plan amendments that provide additional assistance or services to persons eligible under the approved plan or that make new groups eligible for assistance or services provided under the approved plan.

* U.S. GOVERNMENT PRINTING OFFICE: 1980—311-838/1135