



## Final Regulation Agency Background Document

<b>Agency name</b>	DEPT OF MEDICAL ASSISTANCE SERVICES
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 30 -120-1600 through 1660
<b>Regulation title</b>	Alzheimer's Assisted Living Waiver
<b>Action title</b>	Alzheimer's Assisted Living Waiver Update
<b>Date this document prepared</b>	April 11, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

This regulatory action updates the Alzheimer's Assisted Living Waiver (AAL) in order to accommodate changes in the industry and to provide greater clarity to the regulations. These changes will bring current Virginia Department of Social Services (VDSS) licensing standards and DMAS' waiver regulations into conformity with each other while clarifying provider requirements and eliminating duplication of effort.

Proposed changes clarify clinical staff requirements and the number of activity hours and who is permitted to provide supervision. Initiation of these changes is expected to increase the available provider pool and provide enhanced participation in the waiver by eligible recipients. A review of the NOIRA and proposed stages public comments indicates support for the proposed changes.

The changes in this final stage are non-substantive and clarifying to incorporate some terms appropriate to Person Centered Planning.

**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 regulations Alzheimer’s Assisted Living Waiver (12 VAC 30-120-1600 et seq.) 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.

4/11/2011

/s/ G A Pane, M.D.

Date

Gregg A. Pane, M.D., MPA, Director

Dept. of Medical Assistance Services

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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.

DMAS’ Alzheimer’s Waiver operates under the authority of § 1915 of the *Social Security Act* and 42 CFR § 430.25(c)(2) which permit the waiver of certain State Plan requirements. These cited federal statutory and regulatory provisions permit the establishment of Medicaid waivers to afford states with greater flexibility to devise different approaches to the provision of long term care services. This particular waiver provides Medicaid recipients who have diagnoses of Alzheimer’s or related dementias with supportive services to enable such individuals to remain in their communities at lower cost, as opposed to being institutionalized in nursing facilities.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The growth within the Medicaid AAL waiver has been gradual and many families who would otherwise qualify are not able to access services due to a limited provider pool. This limit has resulted from programmatic design differences between the VDSS licensing regulations and these DMAS waiver regulations. These changes will provide opportunities for the provider pool to increase moderately which in turn will improve accessibility to the waiver while assuring the health and safety of all participants.

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

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The state regulations that are affected by this action are the Alzheimer's Assisted Living Waiver (AAL) (12VAC 30-120-1600 et seq.)

Current AAL regulations contain requirements that exceed current VDSS licensing requirements. Due to these requirements, the provider community has chosen not to participate in this waiver program as initially anticipated. The areas of key concern are:

1. Staffing:
  - a. employing a full time RN when a program reaches 16 participants,
  - b. requiring only activity staff to provide activities,
  - c. requiring only nurses to distribute medications on 2 work shifts when recent professional licensing regulatory changes created registered medication aides, and
  - d. limiting the credentials of direct care staff to Certified Nurse Aides while these providers' VDSS license requirements permit a wider choice of types of credentials.
  
2. AAL waiver activity hours currently exceed VDSS licensing requirements by 3 hours a week (from 19 to 16).

Proposed changes have been developed in collaboration with the provider community and the state licensing agency for these facilities. With these revisions to the regulations, it is expected that the numbers of providers will increase and consequently, improvement in access to care will be experienced by the families who need these services.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If there are no disadvantages to the public or the Commonwealth, please indicate.*

The primary advantage of these proposed changes is the increased availability of these services to families and individuals who otherwise qualify for this program. This increased service availability is a benefit to all parties: families, providers, and localities. It will benefit the Commonwealth because the individuals who need this type of program will be cared for in a less expensive manner.

A secondary advantage is the streamlining of regulations between multiple state agencies which creates cost and service delivery efficiencies for providers. A third advantage is the removal from DMAS’ regulations of requirements which are more like licensing standards. Since DMAS is not a licensing agency, it is not advantageous that its regulations contain such requirements. The disadvantage to all parties would be if the proposed changes are not implemented. If these changes are not implemented, individuals in need of these services have to be served in more expensive nursing facilities. Inconsistency of regulations between sister state agencies would continue to be a burden to providers in the absence of cost efficiencies. Nursing home providers are not expected to agree with changes that will enable the expansion of community providers. However, since the nursing facilities in the Commonwealth typically have an occupancy rate of 90% or higher (for CY 2007 it was 91.16%), it is not anticipated that this community program will have a significant negative business impact for nursing facilities.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
1600	Definitions	Non-substantive text changes	Consistency with DSS licensing regulations to facilitate providers’ participation in waiver.
1605	Sets out waiver description and legal authority.	Non-substantive text changes.	Clarity and consistency with Person Centered Planning concept.
1610	Sets out individual eligibility requirements	Non-substantive text changes.	Language clarity.
1620	Sets out covered services	References added to Licensed	Expansion of the

		Health Care Professionals (rather than specific nursing levels) as authorized to perform certain services.	professionals authorized to perform required services permits providers the flexibility to make staffing decisions and to have the professionals' licenses control their actions.
1630	Sets out general requirements for participating providers	Non-substantive text changes.	Clarity and consistency with Person Centered Planning concept.
1640	Sets out participation standards for provision of services	Non-substantive changes.	Clarity and consistency with Person Centered Planning concept. Updating VAC cites.
1650	Sets out payment methodology for this waiver's services	Non-substantive changes.	Clarity and consistency with Person Centered Planning concept.
1660	Sets out utilization review requirements	Non-substantive changes.	Clarity and consistency with Person Centered Planning concept.
1670	Waiver waiting list.	Non-substantive changes.	Improved clarity.
1680	Sets out appeal requirements	Non-substantive change.	Consistency with Person Centered Planning concept.

The changes made in this final stage action are minor wording changes to better match these DMAS' regulations with the Department of Social Services licensing regulations for assisted living facilities that care for persons who have Alzheimer's and related disorders. The use of 'individual' instead of 'recipient' conforms to the current Person Centered Planning concept.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

DMAS' proposed regulations were published in the November 8, 2010, *Virginia Register* (VR 27:5) for their public comment period from November 8, 2010, through January 7, 2011. Comments were received from Carriage Hill Retirement; Chestnut Grove Assisted Living; the Virginia Assisted Living Association; MicAnd Assisted Living; Lee's Hill Catering; Partnership for People with Disabilities (VCU); Virginia Health Care Association (VHCA) and Virginia Center for Assisted Living (VCAL); Licensing Division of the Department of Social Services; Virginia Association of Nonprofit Homes for the Aging (VANHA); Alzheimer's Association, co-signed by the State Long Term Care Ombudsman, The Community Partnership for Improving Long-Term Care, and the Virginia Poverty Law Center; Northern Virginia Healthcare Center and Birmingham Green Adult Care Residence; and also two individuals. A summary of the comments received and the agency's responses follows.

Commenter	Comment	Agency response
Carriage Hill Retirement, Bedford VA	This commenter was pleased with the proposed regulations. The changes mirror the current services and standards for the assisted living and Alzheimer's private pay residents. This commenter felt that the true benefit for the Commonwealth would be that more providers would choose to participate in the DMAS' AAL waiver program.	DMAS appreciates this provider's review and support.
Chestnut Grove Assisted Living, Lee County	This commenter expressed concern about the loss of the additional \$3 per day payments for persons receiving Auxiliary Grants who also live in assisted living facilities. This commenter also discussed how difficult this work is and how little pay is received and expressed concern that young people are not entering this industry. This commenter stated that a waiver program was needed for disabled, poorer people in need of assisted living	DMAS appreciates this provider's review and support. DMAS understands that rendering these services is difficult and appreciates the suggestion about another waiver program. DMAS notes that this waiver is intended to cover the low income elderly and persons with disabilities in assisted living facilities and while the new federal healthcare reform does provide for additional waiver programs, DMAS would require direction from the General Assembly prior to taking any such action.
Virginia Assisted Living Association	VALA supports these regulations and urges their adoption and earliest possible effective date.	DMAS appreciates this representative provider organization's review and support and is making every effort to expedite the completion of the rule making process.
Individual	This commenter strongly supported these proposed changes. This commenter stated that there is an obvious need for waiver services in the Commonwealth and that they would help to deliver a higher quality of care. These changes will greatly benefit the current population as well as future persons.	DMAS appreciates this individual's review and support.
MicAnd Assisted Living	This commenter stated that these changes will allow more facilities to accept those persons with dementia that otherwise would not be able to find placement.	DMAS appreciates this provider's review and support.
Individual	This commenter stated that the current funding rates for assisting the elderly are based on a cost of living audit from 50 years ago. Those with dementia have been unable to voice their concerns and there is too much red tape just getting through the system. It's nice to know that someone is looking out for them.	DMAS appreciates this individual's review and support and understands the concerns about persons who have dementia; DMAS is initiating these changes to address these regulations.



	<p>assessment which would determine medical, clinical, and functional needs of the resident in order to develop a plan of care.”</p> <p>2. An additional concern was the removal that a Certified Nurse Aide provide the daily care. This commenter stated that DMAS had expanded the criteria of staff eligible to provide the daily care to include individuals with other types of training or testing who are not subject to a licensing board or authority that ensures that professional standards are met and maintained.</p> <p>3. This commenter questioned who in the facility would be qualified to supervise and monitor the medical conditions and needs of the waiver recipients by pointing out that current DSS licensing regulations only require quarterly oversight by a licensed health care provider and a medication review by a licensed health care professional only every 6 months.</p> <p>4. This commenter also recommended that the number of activity hours should be reinstated rather than reduced.</p>	<p>“comprehensive assessment” continues to include information as it relates to the social, psychological, and clinical health of the individual and is used to create the individual service plan formally known as the “plan of care”. This is not a change in DMAS’ requirements.</p> <p>In addition DSS regulations 22VAC40-72-480 require Annual LHCP review of all individuals. This combination of oversight provides a comprehensive review process to assure the right care is provided in the correct manner.</p> <p>2. DMAS recognizes this concern; however, this change conforms with DSS licensing regulations at 22 VAC 40-72-250.</p> <p>3. Current DMAS AAL regulations address the frequency of oversight by a LHCP. This existing frequency was not changed in the proposed regulations. The proposed regulations require the LHCP to complete a monthly summary for individuals as well as when a significant change in health status or behavior occurs. Additionally, oversight is provided to direct staff through skilled nursing services. (12 VAC 30-120-1640)</p> <p>4. DMAS will change language to mirror DSS regulation (22 VAC 40-72-1100) related to the number of activity hours. This adjustment will address the stated concern and provides for consistency between DSS licensing regulations and AAL regulations. In addition it will address the work underway by DSS to review the number of activity hours.</p>
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<p>Licensing Division of the Dept. of Social Services</p>	<p>This commenter provided the following comments in order to better coordinate DMAS' regulations with those of DSS' Licensing:</p> <ol style="list-style-type: none"> <li>1. The Individualized Service Plan should replace the Plan of Care;</li> <li>2. Residents meeting NF criteria should not be eligible for assisted living, even secure units if licensed under assisted living;</li> <li>3. Reference to skilled nursing LHCP should be deleted;</li> <li>4. Leave the requirement for 19 hours of activities but remove the one-to-one activity time;</li> <li>5. DMAS' regs will require two sets of forms unless they already include all information required by [DSS] Standards;</li> <li>6. Check references to administrator training with requirements by Long Term Care Board;</li> <li>7. Allow training of staff by personnel other than Licensed Health Care Professionals or make this training by an LHCP optional;</li> </ol>	<p>DMAS appreciates these comments and the participation of the DSS in the drafting of these proposed regulatory changes.</p> <ol style="list-style-type: none"> <li>1. DMAS agrees with this change. It provides for regulatory consistency with DSS licensing and speaks to the person-centered language request.</li> <li>2. Currently, this is clarified on the DMAS 96. Under Federal (CMS) waiver criteria, waiver individuals must meet the NF level of care criteria as the alternative institution placement. If the request were adopted, the waiver would not exist and individuals in need of service would go unserved. By virtue of this waiver, these individuals are in safe, secure environments that meet their care needs.</li> <li>3. The current use of the phrase is redundant and unnecessary therefore it is being removed.</li> <li>4. DMAS will change its language to mirror DSS regulation (22 VAC 40-72-1100) related to the number of activity hours. This adjustment provides consistency between DSS licensing regulations and AAL regulations. In addition it will address the work underway by DSS to review the number of activity hours.</li> </ol> <p>DMAS will retain the additional one hour of 1-on-1 activities in recognition of the value of quality activity time in supporting an individual who has Alzheimer's.</p> <ol style="list-style-type: none"> <li>5. DMAS has integrated much of DSS information on the required forms in an effort to avoid duplication and coordinate daily documentation. Current providers have recognized this and have voiced no concern over duplicated documentation.</li> <li>6. DMAS concurs with the change and has corrected the citation in these regulations.</li> <li>7 These proposed regulations allow training of staff to be conducted by either a health care educator, an adult education professional, or a licensed professional with expertise in Alzheimer's or related dementia.</li> </ol>
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	<p>8. Licensing standards require that a minimum of 2 staff if there are 5 or more residents;</p> <p>9. Check RAP (DSS regulatory tracking system) through DSS for new training recommendations.</p> <p>This commenter further stated:          “This is a welcome opportunity for more elderly persons to be served but if it becomes too heavily laden as a medical model many facilities still will not be able to afford to provide services to these individuals.”</p>	<p>8. DMAS concurs and has clarified staffing requirements based on DSS licensing standards found at 22 VAC 40-72-1100.</p> <p>9. DMAS cannot make changes to its regulations to match other <u>proposed stage</u> regulations. If DSS enhances training expectations for staff that exceeds waiver expectations, then DSS licensing will supersede waiver requirements. (22VAC40-72-210)</p> <p>DMAS appreciates the collaboration with its sister agency over these important regulations. This concern is what initiated these proposed regulatory changes. Stakeholders from ALF community Nursing Facility community, DSS licensing, Alzheimer’s Association participated with DMAS to develop the proposed changes to the AAL waiver regulations.</p>
<p>Virginia Association of Nonprofit Homes for the Aging (VANHA)</p>	<p>This commenter strongly encouraged DMAS to reconsider the staffing and activity requirements. “At a minimum, the requirement for Certified Nurse Aides to provide direct care to residents should be reinstated. DMAS should consider requiring a more frequent schedule for oversight by a licensed health care professional and medication review...” VANHA also recommended the restoration of the required number of activity hours.</p>	<p>DMAS recognizes these concerns as the same ones expressed by VHCA / VCAL. DMAS provides the same responses to VANHA as provided above to VHCA / VCAL.</p>
<p>Alzheimer’s Association, co-signed by State Long Term Care Ombudsman, The Community Partnership for Improved Long-Term Care, Virginia Poverty Law Center</p>	<p>These commenters stated that bringing the DMAS waiver regulations into sync with the licensing regulations of the Department of Social Services lessen protections for a very vulnerable population who are eligible for nursing facility care. If the proposed changes would increase provider participation without compromising resident care, they would have supported the proposed changes. These comments focused on two specific areas of concern:</p> <ol style="list-style-type: none"> <li>1. The proposed changes reduce staffing and services to the same level</li> </ol>	<p>DMAS appreciates the Alzheimer’s Association’s participation in the revision of these proposed regulations.</p> <ol style="list-style-type: none"> <li>1. The proposed AAL regulations do not reduce the services as currently outlined. The services provided that</li> </ol>

	<p>received by all assisted living residents providing nothing additional in return for the additional funding provided by the waiver. The people served by this waiver have functional and medical/nursing needs which are at the nursing home level therefore needing more care than other assisted living residents. Of particular concern was the elimination of the requirement that an RN complete the initial comprehensive assessment and provide training, consultation and oversight of direct care staff. The proposed regs effectively eliminate the need for any RN involvement in the care of this waiver's participants. These commenters were concerned that residents could develop significant medical problems which could go unnoticed without effective RN monitoring. By eliminating the requirement that even a certified nursing assistant be present at all times, the proposed regs further weaken existing protections.</p> <p>2. The reduction in activity hours was also a concern because persons with Alzheimer's have a greater need for stimulation and attention to keep them engaged and functioning at the highest possible level of cognition. The provision of activities is the primary source of such stimulation.</p> <p>This group of commenters applauded DMAS' efforts to find ways to encourage greater provider participation and expressed hope that ways other than risking resident health and safety could be found to</p>	<p>exceed the regular assisted living level are: medication oversight, oversight (coordination) of direct care, and training.</p> <p>Licensed health care professionals (LHCP) includes RNs and expands the group of licensed health professionals who can perform the work within the scope of their licensure. It also brings AAL Waiver regulations in sync with DSS Licensing regulations as is the case with the removal of the CNA requirement.</p> <p>The LHCP completes the admissions summary previously termed "comprehensive assessment", monthly summaries and individual service plans. Additionally, the LHCP provides consultation, oversight of direct care staff and is responsible for staff training. (12VAC30-12-1620, 12VAC30-1640) The requirements for conducting training have remained unchanged.</p> <p>2. DMAS will change language to mirror DSS regulation (22 VAC 40-72-1100) related to the number of activity hours. This adjustment provides consistency between DSS licensing regulations and AAL regulations. In addition, it will address the work underway by DSS to review the number of activity hours.</p> <p>DMAS, in the development of this waiver took into consideration the unique characteristics of the population to be served to not place these participants at risk. These proposed regulatory changes were made with the input and consent of the majority of stakeholders that these</p>
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	encourage such improved provider participation.	changes continued to assure health and safety of waiver participants. DMAS does not concur that these changes increase the risk to health and safety of waiver participants.
Birmingham Green	This commenter addressed the proposed change at 12 VAC 30-120-1640B that a maximum of two individual residents share a bathroom. This commenter suggested that DMAS instead refer to '22 VAC 72-890' ( <i>sic</i> ).	DMAS agrees with the requested clarification and will adopt the recommendation.

DMAS recognizes that the Systems Transformation Grant, from the Centers for Medicare and Medicaid Services, is intended to transform service delivery to make it person-centered and to afford affected individuals with the opportunity to participate in the process of planning their care. This effort shifts the focus of the care delivery system away from medical services to support services. DMAS is deeply involved in the Systems Transformation Grant project and has committed significant resources to implementing person-centered planning.

DMAS categorizes its waiver programs into two types of models: medical model and social service model. The waivers which are the medical model are: Technology Assisted, Alzheimer’s Assisted Living, Elderly and Disabled with Consumer Direction, and AIDS waivers. The waivers which are the social services model are: MR/ID, Day Support, and IFDDS waivers. The medical model waivers contain terms like ‘services’, ‘care’, and ‘plan of care’ as is appropriate for this type of waiver. The social services model waivers may contain terms like ‘supports’ and ‘plan for supports’ as is appropriate for this type of waiver. Consequently, a number of the suggested text changes from the Partnership for People with Disabilities have not been made as they conflict with the medical model for the Alzheimer’s Assisted Living waiver. DMAS is unable at this time to implement some of the suggestions for changing terminology in the regulations, such as replacing “services” with “supports”, because DMAS’ receipt of federal financial participation is based upon using the same defined terms as those recognized by the Centers for Medicare and Medicaid Services (CMS), who provides state Medicaid programs with the federal Medicaid matching funds for the program.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

12VAC30-120-1600 Definitions		Admissions summary is added to replace comprehensive assessment	Updates terminology in keeping with current community standards.
		Enrolled provider redefined to address licensing or	DMAS requires, consistent with federal law, that health care entities that enroll as

		certification requirement.	providers be appropriately licensed or certified. This change to the definition for providers incorporates this operational standard.
		<p>“Licensed health care professional” (LHCP) means any health care professional currently licensed by the appropriate health regulatory board &amp; practicing within the scope of his profession.</p> <p>“Individual” defined as the persons receiving these waiver services.</p>	<p>Clarifies professional staff roles and permits providers to use various licensed professionals in staffing functions instead of specifically RNs.</p> <p>Person-centered wording is proposed.</p>
30-120-1610	Refers to AAMR	Reference updated to the new name of the organization. Enrollment section updated to allow for CMS to approve the number of waiver slots and moves reference to the waiver waiting list to its own new section.	External organization (AAMR) changed its name. CMS must approve the number of slots for this waiver as this ties directly to the amount of federal matching dollars DMAS may claim for this waiver.
30-120-1620	Specifies particular nursing license	Licensed health care professional is substituted.	Permits providers flexibility to use any one of several licensed staff to perform required functions. Changing activity hours to conform to licensing standard.
30-120-1630	Refers to approved providers	Change to enrolled providers	In order to enroll, providers must complete all applicable certification or licensing steps. DMAS is prohibited by federal law from reimbursing providers that have not been certified or licensed, as appropriate.
	Refers to Patient Information Form (DMAS-122)	Change to new form (Medicaid LTC Communication Form (DMAS-225)	DMAS has updated its form.
30-120-1640	Refers to VDSS reg cites for assisted living facilities	Change to current VDSS reg cites as that agency revised its regulations	Updated references to VDSS current assisted living facility regulations and re-organized staff training and experience requirements.
	Requires the ALF to use	Change to VDSS licensing standard	Regulated provider community requested the change to conform DMAS'

	certain staff for direct care.		requirements to be in sync with the existing VDSS licensing standards. Adding additionally to individual's visits with private physician to better ensure individual's needs are met. Added 'Alzheimer's or related' qualifiers to dementia for internal regulatory consistency.
30-120-1650	Refers to periods of absence from ALFs	Add that leave days shall be cumulative across a 12-month period.	Clarification of payment standard.
30-120-1660	Refers to utilization reviews	Modify language to improve specificity and timing.	Clarification.
	30-120-1670	New section	Consistency across all waiver programs that use waiting lists.
	30-120-1680	New section	Consistency across all waiver programs that could result in an appeal from either providers or recipients.

As an alternative to merging all seven waiver program regulations, as suggested during the course of the 2008 OAG Regulatory Reform Taskforce **but which is opposed by the advocate communities**, DMAS is proposing to develop a common format and organizational structure in order to achieve the needed consistency in definitions, organization, and program requirements for the regulated provider communities. Such commonalities across all waivers will help providers who are able to become participating providers in more than one waiver program. This applies to new sections 1605 (Waiver description and legal authority), 1670 (Waiver waiting list) and 1680 (Appeals).

**Regulatory flexibility analysis**

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

Any changes to the performance standards bring the waiver expectations in line with the DSS Licensing standards to simplify provider reporting and performance standards.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) 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; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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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.