



Virginia  
Regulatory  
Town Hall

## Notice of Intended Regulatory Action Agency Background Document

<b>Agency Name:</b>	Dept. of Medical Assistance Services 12 VAC 30
<b>VAC Chapter Number:</b>	12 VAC 30-110-1350 through 110-1396
<b>Regulation Title:</b>	Eligibility and Appeals
<b>Action Title:</b>	Authorized Applicant
<b>Date:</b>	June 28, 2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

### Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The purpose of this regulatory action is to promulgate state regulations concerning which individuals are authorized to sign Medicaid applications. In the past, the Department has found itself faced with applications filed without the knowledge and approval of the applicant or filed on behalf of incompetent or incapacitated individuals by others who have no legal authority to conduct business on behalf of the applicant. To ensure that applications are only filed with the full knowledge and consent of an applicant or by someone legally acting on his behalf, the Department proposes this regulation.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

The Code of Virginia (1950) as amended, Section 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code also provides, in the Administrative Process Act (APA) Sections 9-6.14:7.1 and 9-6.14:9.1, for this agency's promulgation of proposed regulations subject to the Governor's review. Federal regulations at 42 CFR 435.906 and 42 CFR 435.907 provide that an individual must be afforded an opportunity to apply for Medicaid and must require a written application from the applicant, his authorized representative or, in the case of an incompetent or incapacitated individual, someone acting responsibly on his behalf.

### Substance

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

This regulation is essential to protect the health and welfare of citizens and for the efficient and economical performance of an important governmental function. This regulation is necessary to specify who is legally able to apply for Medicaid for himself or on behalf of another person. Medicaid is a multi-billion dollar program that expends public funds to purchase health care on behalf of eligible individuals. The Department must ensure that program funds are expended only on behalf of eligible individuals and protect the program from fraud and abuse. Eligibility determination is based upon personal and financial information submitted by individuals applying for Medicaid or by individuals applying on behalf of others. In addition, certain legal assignments of rights must be provided as a condition of eligibility.

### Alternatives

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

Local departments of social services receive and process thousands of applications for Medicaid each year. Each application represents an individual or family which is seeking payment of covered medical and health services received from an array of health and medical care providers such as hospitals, doctors, pharmacists, and nursing homes. In order to ensure that claims are paid only on behalf of eligible individuals, the information secured from applications upon which eligibility is determined must be accurate and complete. Therefore, each application must be signed by an individual privy to the necessary information and authorized to sign on his own or on behalf of another. This proposed regulation is the result of careful evaluation of the Department's experience over the past thirty years. In addition, the proposed regulation is being submitted for public comment so that additional issues and alternatives may be considered.

## Family Impact Statement

*Please provide a preliminary analysis of the potential 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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Many elderly and disabled Virginians and many children are unable to pay the high cost of medical and health care services without assistance. These regulations specify how local eligibility workers must evaluate applications for Medicaid. The goal of the regulations is to ensure that only individuals who desire to apply for assistance or persons acting legally on their behalf can sign an application. In developing these regulations, the Department has reviewed the impact that the regulations will have on families and their ability to remain self-sufficient and maintain personal responsibility. The regulations will encourage self-sufficiency and personal responsibility by ensuring that individuals act on their own behalf or authorize others to act responsibly for them. The regulations ensure that only individuals legally authorized to act on behalf of incompetent or incapacitated individuals may apply on their behalf.