



Virginia  
Regulatory  
Town Hall

## Emergency Regulation Agency Background Document

<b>Agency Name:</b>	Dept. of Medical Assistance Services; 12 VAC 30
<b>VAC Chapter Number:</b>	12 VAC 30-90
<b>Regulation Title:</b>	Patient Intensity Rating System (PIRS)
<b>Action Title:</b>	PIRS (Emergency)
<b>Date:</b>	June 3, 2002; GOV ACTION NEEDED BY 6/27/02

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

### Emergency Preamble

*Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).*

*Please include a brief summary of the emergency action. There is no need to state each provision or amendment.*

This regulatory action qualifies as an emergency, pursuant to the authority of the *Code of Virginia*, 1950 as amended, § 2.2-4011, because it is responding to a change in the Virginia Appropriations Act that must be effective within 280 days from the date of enactment of the Act (Chapter 899, Item 325 MM) and this regulatory action is not otherwise exempt under the provisions of the *Code* § 2.2-4006. Since DMAS intends to continue regulating the two issues contained in this emergency regulation past the effective period permitted by this emergency action, it is also requesting approval of its Notice of Intended Regulatory Action in conformance to § 2.2-4007.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.*

*Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*

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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 the Department of Medical Assistance Services (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

## Substance

*Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. 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 Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

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The regulatory action applicable to PIRS Reimbursement Methodology revises the Methods and Standards for Establishing Payment Rates-Long Term Care (12 VAC 30 Chapter 90, Section 41).

Currently a facility's per diem rate is based on the Patient Intensity Rating System (PIRS). This system links a facility's per diem rate to the level of services required by its patient mix. This methodology uses classes that group patients together based on similar functional characteristics and service needs. Data is collected on the DMAS-80 form at the time of admission and then twice a year for every Medicaid recipient in a nursing facility (NF). The service intensity index (SII) is calculated quarterly, and is used to derive the direct patient care cost ceiling and rate components of the facility's payment rate, which will be adjusted semiannually. A semiannual SII is calculated by averaging appropriate quarterly SII values for the NF respective reporting period. See 12VAC 30-90-300 for an illustration.

DMAS has proposed revisions to these PIRs regulations to adopt a new methodology, the Resource Utilization Groups (RUGs) to replace the currently effective PIRs methodology. Both PIRs and RUGs are methodologies that use patient mix calculations to establish facilities payments. The recommended final RUGs regulations are in the final adoption stage and are due to become effective July 1, 2002.

In the event that the RUGs methodology does not become operative by July 1, 2002, DMAS shall require the authority, pursuant to § 1919(b) through (d) of the *Social Security Act*, to use the last SII score for rate calculations under the current PIRS reimbursement methodology. Data will be collected for payment purposes prescribed by DMAS on the new DMAS-80 (maf revised 2/02) form at the time of admission. The NFs Service Intensity Index (SII), derived from the most recently recorded DMAS-80 assessment data submission, will be retained and used for all NFs in the Commonwealth according to 12VAC30-90-300.

### Alternatives

*Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.*

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The alternative to this proposal is to revert back to the previous PIRS assessment survey instrument and collection of PIRS assessments. This would be burdensome to the NFs since the facilities are already submitting resident assessment information through Minimum Data Sets (MDS) data to the Virginia Department of Health (VDH). The MDS data will be used by DMAS to calculate the Case Mix Index (CMI) for RUGS reimbursement. The CMI score is expected to replace the SII score when calculating the direct care component of NF payment. The RUGS system is expected to be implemented on July 1, 2002, absent any legal or regulatory challenges.

### Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the 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 regulatory actions will not have any negative effects on the institution of the family or family stability. They will not increase or decrease disposable family income or erode the marital commitment. They will not discourage economic self-sufficiency, self-pride, nor the assumption of family responsibilities.