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Exempt Action Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation(s)	12 VAC 30-40-240
Regulation title(s)	More restrictive methods of treating resources than those of the SSI program: §1902(f) states only
Action title	Real Property Appraisals for Resource Eligibility
Final agency action date	6/22/2016
Date this document prepared	6/22/2016

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) or an agency's basic statute, the agency is not required, however, 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, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The proposed change allows individuals to use real estate appraisers to assess value of non-commercial property for the purpose of determining Medicaid eligibility. This method may be used as an alternative to the current tax assessed value method. The appraisers must be licensed by the Virginia Real Estate Appraiser Board. The individual or his designee will be responsible for payment of the appraiser.

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 Summary with the attached amended regulations, called Appraisals and Tax-Assessed Value (12 VAC 30-40-240) and adopt the action stated therein. I certify that this final exempt regulatory action has completed all the requirements of the Code of Virginia § 2.2-4006(A), of the Administrative Process Act.

June 22, 2016
Date

/signature/
Cynthia B. Jones, 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 citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

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.

The 2016 Acts of Assembly, Chapter 780, Item 306.SSSS states that the Department of Medical Assistance Services "shall seek federal authority through a State Plan Amendment under Title XIX of the Social Security Act to permit individuals to use certified appraisals conducted by appraisers licensed by the Virginia Real Estate Appraiser Board as an alternative to the use of the tax assessed value to establish the value of any non-commercial real property for purposes of Medicaid resource eligibility. The cost of the appraisal shall be borne by the applicant or his designee." DMAS is seeking federal authority for this change through a state plan amendment, and is pursuing the same changes to the Virginia Administrative Code through this regulatory action.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

Currently, individuals who own non-commercial real property use a tax assessment system to determine the value of the property and to further determine their resource eligibility for Medicaid.

Use of the tax assessment system has resulted in some stakeholder properties being assessed at a higher rate than the actual value of the home. This may unfairly exclude some property owners from Medicaid eligibility.

DMAS recommends adding language to 12 VAC 30-40-240 giving individuals an alternative means of determining value of non-commercial property.

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.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; nor 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.