



COMMONWEALTH *of* VIRGINIA

Office of the Attorney General

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MEMORANDUM

TO: EMILY MCCLELLAN
Regulatory Supervisor
Department of Medical Assistance Services

FROM: ELIZABETH M. GUGGENHEIM
Assistant Attorney General

DATE: March 18, 2021

SUBJECT: Fast Track regulation regarding the use of Supplemental Nutritional Assistance Program (SNAP) income to support Medicaid eligibility determinations (12 VAC 30-10-60)

I have reviewed the attached fast track regulation, which would allow DMAS to use SNAP income to support Medicaid eligibility determinations at the time of Medicaid application. Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Virginia Code § 32.1-324, has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

Please be aware that this review is based solely upon whether DMAS has the legal authority to promulgate this regulation, not the appropriateness of whether it should be promulgated pursuant to the fast track process. Pursuant to Virginia Code § 2.2-4012.1, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either House of the General Assembly or of the Joint Commission on Administrative Rules, the Department of Medical Assistance Services shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you have any questions or need any additional information, please feel free to contact me at 786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General

