



Exempt Action Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30-50-100, 50-105, 50-110, 50-140, and 50-180
Regulation title	Amount, Duration and Scope of Services of Medical and Remedial Services
Action title	Abortion Coverage
Final agency action date	
Document preparation date	

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), the agency 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, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The section of the State Plan for Medical Assistance that is affected by this action is the Attachment 3.1 A&B (12 VAC 30-50), Amount, Duration and Scope of Medical and Remedial Services for Categorically Needy and Medically Needy Individuals.

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.

Amendment # 91 (Abortion services), submitted by the Governor to the 2010 General Assembly for inclusion in the 2010 Appropriations Act, states as follows:

j. MEDICAL SERVICES: No expenditures from general or nongeneral fund sources may be made out of any appropriation by the General Assembly for providing abortion services, except as otherwise required by federal law or state statute.

Explanation: (This amendment prohibits state expenditures for abortion services, unless required by federal law or state statute.)

This mandate is based upon annual federal Appropriations Act language, particularly Public Law 111-8, which prohibits federal funding (especially Medicaid) for abortion services, except in certain circumstances. Current DMAS regulations permit abortion coverage where the life *or the health* of the mother is at risk. Because the health of the mother is not included under federal law as an exception to the abortion coverage limitation, in this final exempt action DMAS is required to remove the reference to health from the regulations.

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 State Plan pages, Amount, Duration and Scope of Services of Medical and Remedial Services: Abortion Coverage (12 VAC 30-50-100, 50-105, 50-110, 50-140, and 50-180), 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.

Date

Cynthia B. Jones, Acting Director
Dept. of Medical Assistance Services

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

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, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.