



[townhall.virginia.gov](http://townhall.virginia.gov)

## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	DEPT OF MEDICAL ASSISTANCE SERVICES
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC30-50-140; 12VAC30-50-220
<b>VAC Chapter title(s)</b>	Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility, or elsewhere; Diagnostic, screening, preventive, and rehabilitative services other than those provided elsewhere in this plan
<b>Action title</b>	Preventive Services
<b>Date this document prepared</b>	7/29/24

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

In accordance with Item 288.ZZZ of the 2024 Appropriations Act, the proposed changes amend coverage of preventive services for adult, full Medicaid individuals who are not enrolled in the Patient Protection and Affordable Care Act (PPACA) to align with the preventive services coverage provided under the PPACA.

### Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.


- ACA = Affordable Care Act
- CMS = Centers for Medicare & Medicaid Services
- DMAS = Department of Medical Assistance Services
- FAMIS = Family Access to Medical Insurance Security
- HRSA = Health Resources and Services Administration
- MCOs = Managed Care Organizations
- PPACA = Patient Protection and Affordable Care Act
- USPSTF = U.S. Preventive Services Task Force

**Statement of Final Agency Action**

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 Regulatory Review Summary entitled "Preventive Services" 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.

07/29/24  
Date

  
Cheryl J. Roberts, Director  
Dept. of Medical Assistance Services

**Mandate and Impetus**

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

The Code of Virginia § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance and to promulgate regulations. The Code of Virginia § 32.1-324, grants the Director of the Department of Medical Assistance Services the authority of the Board when it is not in session.

These regulatory changes are expected to be non-controversial as the scope of coverage for preventive services aligns with thoroughly validated PPACA standards, care already covered for

pediatric and Medicaid adult expansion members, and services covered by the majority of insurance products nationwide.

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

The Code of Virginia § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance and to promulgate regulations. The Code of Virginia § 32.1-324, grants the Director of the Department of Medical Assistance Services the authority of the Board when it is not in session.

### Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

Historically, coverage for preventive services has been available to all Medicaid and Family Access to Medical Insurance Security (FAMIS) children and to Medicaid expansion adults. In addition, Managed Care Organizations (MCOs) have offered coverage for many preventive services as enhanced benefits to adults in all eligibility categories to ensure consistency and to support overall wellness goals. Only limited preventive services coverage was available to adult, full-benefit Medicaid members who did not enroll through Medicaid Expansion.

Item 304.EEEE in the state budget that took effect July 1, 2022, established preventive services as standard Medicaid benefits, ensuring that all full benefit adult Medicaid members (even those not covered by Medicaid Expansion) have equitable access to preventive care.

Item 288.ZZZ of the 2024 Appropriations Act made modifications to the 2022 language to clarify that preventive services coverage for adult, full-benefit Medicaid members who are not enrolled pursuant to the PPACA is being amended to align with the coverage provided under the PPACA. (This clarification was necessary because the limited preventive services coverage that was in effect prior to July 1, 2022 conflicted with the coverage under the PPACA.)

The State Plan Amendment was approved by the Centers for Medicare & Medicaid Services (CMS) on December 7, 2022, and the regulations are being amended to align with the state plan language.

### Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

The scope of coverage for preventive services aligns with the [Patient Protection and Affordable Care Act](#) (PPACA), which specifies that preventive care for adults be consistent with the following:

- Services that have in effect a rating of "A" or "B" in the current recommendations of the U.S. Preventive Services Task Force (USPSTF);
- Immunizations recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention; and,

The Healthcare.gov website provides a detailed list of the specific preventive services at <https://www.healthcare.gov/coverage/preventive-care-benefits/>.

The sections of the State regulations that are affected by this action are 12VAC30-50-140 and 12VAC30-50-220.

### Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The primary advantage of these changes to the public and the Commonwealth is that they ensure full benefit adult Medicaid members (even those not covered by Medicaid Expansion) have equitable access to preventive care, which can help reduce the risk of developing serious health problems and help detect illnesses at an early stage when treatment may be more effective. These changes create no disadvantages to the public, the Agency, the Commonwealth, or the regulated community.

### Requirements More Restrictive than Federal

*Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

There are no requirements in this regulation that are more restrictive than applicable federal requirements.

### Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

No state agencies, localities, or other entities are particularly affected by this change.

**Economic Impact**

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> <li>a) fund source / fund detail;</li> <li>b) delineation of one-time versus on-going expenditures; and</li> <li>c) whether any costs or revenue loss can be absorbed within existing resources</li> </ul>	<p>The following funds have been allocated for FY2024.</p> <p style="padding-left: 20px;">General: \$62,446</p> <p style="padding-left: 20px;">Non-General: \$57,458</p> <p>These costs are expected to be on-going expenditures. There is no anticipation that such costs can be absorbed within existing resources.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no costs to other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>The benefit of this action is to bring the regulations in compliance with the PPACA, by ensuring that all full benefit adult Medicaid members have equitable access to preventive care.</p>

**Impact on Localities**

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>There are no costs to localities as a result of these changes.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The benefit of this action is to bring the regulations in compliance with the PPACA, by ensuring that all full benefit adult Medicaid members have equitable access to preventive care.</p>

**Impact on Other Entities**

<p>Description of the individuals, businesses, or other entities likely to be affected by the</p>	<p>None, because the regulatory changes bring the regulations in compliance with the PPACA.</p>
---	---

regulatory change. If no other entities will be affected, include a specific statement to that effect.	
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	None.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	None.
Benefits the regulatory change is designed to produce.	The benefit of this action is to bring the regulations in compliance with the PPACA, by ensuring that all full benefit adult Medicaid members have equitable access to preventive care.

**Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

No alternatives can achieve the purpose of the regulatory changes.

**Regulatory Flexibility Analysis**

*Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

This regulatory action is not expected to affect small businesses.

### Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.*

*Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day 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 agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

DMAS is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Jimiequa Williams, DMAS, 600 E. Broad Street, Richmond, VA 23219, 804-225-3508, [Jimiequa.Williams@dmas.virginia.gov](mailto:Jimiequa.Williams@dmas.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

### Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
12 VAC 30-50-140			Text changes are being made to reflect coverage of preventive services that align with the PPACA for adult, full Medicaid individuals.

12 VAC 30-50- 220			Text changes are being made to reflect coverage of preventive services that align with the PPACA for adult, full Medicaid individuals.
-------------------------	--	--	--