



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	DEPT OF MEDICAL ASSISTANCE SERVICES
<b>Virginia Administrative Code (VAC) citation</b>	12VAC 30-30-10, 12VAC 30-141-100, 12VAC 30-141-110 Adds new sections: 12VAC30-110-1600 through 30-141-1620
<b>Regulation title</b>	Title XIX Mandatory Coverage: Categorically needy and other required special groups; Title XXI Eligibility Determination and Application Requirements; Eligibility and Appeals
<b>Action title</b>	Deeming Newborns of FAMIS and FAMIS MOMS
<b>Final agency action date</b>	November 9, 2010
<b>Document preparation date</b>	November 8, 2010

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 12 VAC 30-30-10, Mandatory coverage: Categorically needy and other required special groups. The state regulations that are affected by this action are Family Access to Medical Insurance Security Plan (FAMIS) (12 VAC 30-141) and Eligibility and Appeals (12 VAC 30-110).

This action technically changes existing language that is being moved, as a result of direction from the Centers for Medicare and Medicaid Services (CMS), from a Title XIX State Plan chapter (12 VAC 30-30) to a non-State Plan chapter (12 VAC 30-110).

In addition to moving existing regulatory text from Chapter 30 to Chapter 110, technical corrections are also being made to the existing FAMIS chapter's sections (Chapter 141). This change makes no difference in the numbers of children that will be covered nor in the services that these children will receive. The previous regulatory action amended Chapter 30 (VR 26:12, p 1985).

The provision that must be moved (12 VAC 30-30-10 Item 12(b)) addresses the eligibility of children who are born to women who are themselves eligible for services under the Title XXI FAMIS or FAMIS MOMS programs. This existing provision, now located in 12 VAC 30-30-10 Item 12 (b)) is being moved to 12 VAC 30-110, entitled Eligibility and Appeals, as a result of direction received from CMS to remove this item from the Title XIX State Plan for Medical Assistance. The Office of the Attorney General initially approved the addition of these children to the State Plan Chapter 30 on January 12, 2010.

CHIPRA section 111 stated: "(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires)."

This provision permits children, who are born to FAMIS-eligible mothers, to be automatically deemed eligible from birth up to their first birthday for Medicaid/FAMIS covered services, as appropriate. At the direction and approval (June 29, 2010) of the Centers for Medicare and Medicaid Services, DMAS has incorporated these children into its Title XXI waiver known as FAMIS MOMS. In short, these children's mothers will not have to file applications for FAMIS/FAMIS MOMS eligibility for their children. At the time of the child's first birthday, these children's parents will have to apply for coverage and show proof of citizenship and identity just as is required of other applicants for medical assistance.

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 and 325, 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 *Code of Virginia* (1950) as amended, §32.1-351, grants to the Board of Medical Assistance Services the authority to administer and amend the Family Access to Medical Security Insurance

Plan (FAMIS). The *Code of Virginia* (1950) as amended, § 32.1-351(K), authorizes the Director of DMAS to administer and amend the Family Access to Medical Security Insurance Plan according to the Board’s requirements. The federal Children’s Health Insurance Program (CHIP) as established by § 2101 of the *Social Security Act* [42 U.S.C. 1397aa] provides governing authority for payments for services

The part of this regulatory action that simply moves existing text from Chapter 30 to Chapter 110 is exempt from public comment, under the authority of the *Code of Virginia* § 2.2-4006(A)(3), as regulations that consist only of changes in style and form or corrections of technical errors. This is simply a change in location of existing text from one VAC chapter to another. DMAS is also designating the 1600 series of section numbers in Chapter 110 as reserved for special eligible groups that may arise in the future.

**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 and state only regulations entitled Deeming Newborns of FAMIS MOMS (12 VAC 30-30-10; 12 VAC 30-110-1620; 12 VAC 30-141-100 and 12 VAC 30-141-110 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.

Nov. 9, 2010

/s/ Gregg A. Pane

Date

Gregg A. Pane, M.D., MPA, 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.