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Final Regulation Agency Background Document

Agency name	DEPT. OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation(s)	12 VAC30-141-10, 12 VAC30-141-20, 12 VAC30-141-30, 12 VAC30-141-40, 12 VAC30-141-50, 12 VAC30-141-60, 12 VAC30-141-70, 12 VAC30-141-100, 12 VAC30-141-110, 12 VAC30-141-120, 12 VAC30-141-150, 12 VAC30-141-660, 12 VAC30-141-670, 12 VAC30-141-680, 12 VAC30-141-700, 12 VAC30-141-710, 12 VAC30-141-720, 12 VAC30-141-730, 12 VAC30-141-740, 12 VAC30-141-750, 12 VAC30-141-760, 12 VAC30-141-790
Regulation title(s)	Family Access to Medical Insurance Security (FAMIS) Plan
Action title	FAMIS and FAMIS MOMS Periodic Review
Date this document prepared	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please 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.

This regulatory action updates the regulations governing the oversight of the state's Children's Health Insurance Program (CHIP) (known in Virginia as the Family Access to Medical Insurance Security (FAMIS) Plan) and the CHIP waiver program for pregnant women known as FAMIS MOMS. Effective January 1, 2014, the Affordable Care Act (ACA) required eligibility for health coverage under all health insurance affordability programs, including CHIP, to be based on a new Modified Adjusted Gross Income (MAGI) methodology. Calculating applicants' MAGI eligibility entails defining household composition and executing income-counting procedures based on

Internal Revenue Service rules. Federal law required these changes to be made in the State Child Health Plan under Title XXI of the Social Security Act.

This regulation incorporates the required changes in eligibility determination standards as well as updates to operational processes supporting eligibility and renewal actions. Because the FAMIS MOMS program operates as a CHIP waiver, corresponding regulations related to FAMIS MOMS are also included.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

- ACA = Affordable Care Act
- CHIP = Children's Health Insurance Program
- CHIPAC = Children's Health Insurance Program Advisory Committee
- CPU = Claims Processing Unit
- DMAS = Department of Medical Assistance Services
- FAMIS = Family Access to Medical Insurance Security
- MAGI = Modified Adjusted Gross Income
- VDSS = Virginia Department of Social Services

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 Regulatory Review Summary entitled FAMIS and FAMIS MOMS Periodic Review 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

Jennifer S. Lee, M.D., Director
Dept. of Medical Assistance Services

Mandate and Impetus

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically

prompted its initiation. If there are no changes to previously-reported information, include a specific statement to that effect.

There are no changes to the previously-reported information about the mandate for this regulatory change.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity'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 and directs that such Plan include a provision for the Family Access to Medical Insurance Security (FAMIS) program. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance when the Board is not in session, subject to such rules and regulations as may be prescribed by the Board. The *Code of Virginia* (1950) as amended, § 32.1-351, authorizes the Department of Medical Assistance Services, or the Director, as the case may be, to develop and submit to the federal Secretary of Health and Human Services an amended Title XXI plan for the Family Access to Medical Insurance Security Plan, and revise such plan and promulgate regulations as may be necessary. Title XXI of the Social Security Act § 2105 [42 U.S.C. 1397ee] provides governing authority for payments for services.

Section 1115 of the Social Security Act [42 U.S.C. 1315] provides states with the opportunity to implement demonstration projects that extend benefits to additional population groups with the intent of promoting program objectives, including those of Title XXI. Virginia implements the FAMIS MOMS program through a section 1115 Health Insurance Flexibility and Accountability (HIFA) Demonstration called “FAMIS MOMS and FAMIS Select” (No. 21 – W -00058/3).

The Center for Medicare and Medicaid Services (CMS) has approved the CHIP state plan amendment to implement MAGI rules. CMS has also approved an amendment to the demonstration waiver that reinstated enrollment in FAMIS MOMS using MAGI rules and setting the income eligibility to that of the CHIP program.

Purpose

Please 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's intended to solve.

The purpose of this action is to bring state regulations into line with federal rules and current Virginia practice. This action does not directly affect the health, safety, and welfare of citizens of the Commonwealth.

Substance

Please 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 sections of the Family Access to Medical Insurance Security Plan that are affected by this action are:

Chapter Citation	Chapter Title	Nature of Recommended Changes
12 VAC 30-141-10	Definitions	Adds new definitions and modifies existing definitions pertinent to MAGI and operational processes
12 VAC 30-141-20	Administration and general background	Updates operational processes to reflect current practice
12 VAC 30-141-30	Outreach and public participation	Updates the reference to the Children’s Health Insurance Program Advisory Committee (CHIPAC)
12 VAC 30-141-40	Review of adverse actions	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-50	Nature of adverse actions	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-60	Request for review	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-70	Review procedures	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-100	Eligibility requirements	Specifies financial and non-financial eligibility standards consistent with MAGI requirements, and updated operational processes at VDSS and CPU
12 VAC 30-141-110	Duration of eligibility	Updates terminology from ‘redetermination’ to ‘annual renewal’
12 VAC 30-141-120	Children ineligible for FAMIS	Updates terminology consistent with MAGI standards and operational processes; clarifies that inpatient status in an institution for mental disease is a factor for ineligibility at initial enrollment or renewal

12 VAC 30-141-150	Application requirements	Updates terminology and operational processes at VDSS and CPU consistent with implementation of MAGI standards; use of a single streamlined application; case documentation and maintenance
12 VAC 30-141-660	Assignment to managed care	Specifies that a choice of managed care organization may be made at the time of application
12 VAC 30-141-670	Definitions	Adds new definitions and modifies existing definitions pertinent to MAGI and operational processes
12 VAC 30-141-680	Administration and general background	Updates operational processes to reflect current practice
12 VAC 30-141-700	Review of adverse actions	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-710	Nature of adverse actions	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-720	Request for review	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-730	Review procedures	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-740	Eligibility requirements	Specifies financial and non-financial eligibility standards consistent with MAGI requirements, and updated operational processes at VDSS and CPU
12 VAC 30-141-750	Duration of eligibility	Updates terminology and operational processes at VDSS and CPU
12 VAC 30-141-760	Pregnant women ineligible for FAMIS MOMS	Updates terminology consistent with MAGI standards and operational processes
12 VAC 30-141-790	Application requirements	Updates terminology and operational processes at VDSS and CPU consistent with implementation of MAGI standards; use of a single streamlined application; case documentation and maintenance

Issues

Please 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 advantages to the public, the Agency, and the Commonwealth from this regulatory package are greater clarity in the program rules for FAMIS and FAMIS MOMS, and greater consistency between Virginia regulations and current practice. There are no disadvantages to the public or the Commonwealth as a result of these regulatory changes.

Requirements More Restrictive than Federal

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously-reported information, 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

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously-reported information, include a specific statement to that effect.

No localities, other state agencies, or other entities will be particularly affected by the regulatory change. There are no changes to the information reported at the previous stage.

Public Comment

Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

No comments were submit during the public comment period.

Detail of Changes Made Since the Previous Stage

*Please list all changes that made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Please put an asterisk next to any substantive changes.*

No changes have been made since the proposed stage.