townhall.virginia.gov

Fast-Track Regulation
Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation(s)	12 VAC 30-141-880
Regulation title(s)	Assignment to Managed Care
Action title	FAMIS MOMS - Remove Third Trimester Managed Care Exclusion
Date this document prepared	January 28, 2019

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 incorporates updates to the FAMIS MOMS regulations, to accommodate changes related to the implementation of Medallion 4.0.

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.

FAMIS — Family Access to Medical Insurance Security Plan

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 MOMS - Remove Third Trimester Managed Care Exclusion (12 VAC 30-141-880) and adopt the action stated therein. I certify that this fast-track regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012.1, of the Administrative Process Act.

October 29, 2018 /Jennifer S. Lee, M.D./

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

Mandate and Impetus

Please 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, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "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."

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

This regulatory action is being promulgated as a fast-track action because it is not expected to be controversial. The changes in the regulatory text do not reflect changes in Medicaid programs, but rather, the updated text reflects changes that have already been made in FAMIS MOMS contracts and practice.

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. 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.

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 Virginia regulations into alignment with current FAMIS MOMS contracts and current Medicaid Managed Care practice. DMAS intends to remove regulations that deal with an exclusion for individuals in the third trimester of pregnancy. These changes will stipulate that members in their third trimester of pregnancy will no longer be allowed to request exclusion from Managed Care Organization (MCO) enrollment. In the last year, only 10 women requested exemption. With the implementation of Medallion 4.0 and the upcoming Medicaid expansion, this exemption is no longer necessary to ensure access to care. The Medicaid Managed Care health plans all have 100% network adequacy for prenatal and obstetric care, including Obstetricians/Gynecologists, nurse practitioners, family physicians, and Certified Nurse Midwives (CNMs) in all regions of the Commonwealth. Women will still have the option of changing health plans if their provider is not contracted with a specific MCO. The regulations are essential to protect the health, safety, and welfare of citizens in that the regulatory changes ensure access to care for women in their third trimester of pregnancy.

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 section of the State regulations that is affected by this action is 12 VAC 30-141-880.

The removal of the third trimester managed care exclusion within the FAMIS MOMS regulations is also being removed from the Medallion 4.0 regulations in a separate fast-track regulatory package. The Medallion 4.0 plans provide a number of innovations to improve outcomes for pregnant women and their infants. These plans also ensure that pregnant women receive high quality care and care coordination, which is not available to Fee-for-Service members. As a result, pregnant women will receive an even greater benefit from enrolling in Managed Care and receive high quality care and care coordination as early as possible in their pregnancies.

These benefits, designed to improve health outcomes for women and their infants, are not available for the Fee-for-Service population. By ending this third trimester exclusion, DMAS is committed to ensuring that all pregnant women and infants can receive the comprehensive array of high quality services and care coordination offered by the Managed Care health plans.

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.

These changes create no disadvantages to the public, the Agency, the Commonwealth, or the regulated community.

The primary advantages of this action, to both the public and the Agency, are the removal of regulations that could negatively impact health outcomes and improved access to care for qualified Medicaid Members.

Requirements More Restrictive than Federal

Please 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 more restrictive than federal contained in these recommendations.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "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.

Other State Agencies Particularly Affected

There will be no other state agencies that are more affected than others as the repeal of these regulations shall apply statewide.

Localities Particularly Affected

There will be no localities that are more affected than others as the repeal of these regulations shall apply statewide.

Other Entities Particularly Affected

There will be no other entities that are more affected than others as the repeal of these regulations shall apply statewide.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please 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. Please keep in mind that this is change versus the status quo.

Impact on State Agencies

For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	None
For other state agencies: projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	None
For all agencies: Benefits the regulatory change is designed to produce.	Reduction in unnecessary and limiting regulations and improved access to care and qualified providers for Medicaid Members.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	None
Benefits the regulatory change is designed to produce.	Reduction in unnecessary and limiting regulations and improved access to care and qualified providers for Medicaid Members.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	None
Agency's best estimate of the number of such entities that will be affected. Please 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	None

regulatory change. Please 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.	
Benefits the regulatory change is designed to produce.	Reduction in unnecessary and limiting regulations and improved access to care and qualified providers for Medicaid Members.

Alternatives

Please 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.

The only alternative would be for DMAS to leave these regulations in the Virginia Administrative Code. This option serves no purpose, while there is value in removing the regulations which currently limit access to specific areas of health care services.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please 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.

There are no alternative regulatory methods associated with these regulations.

Public Participation

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.

Detail of Changes

Please 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.

If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Delete inapplicable tables.

If the regulatory change is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below. Please include citations to the specific section(s) of the regulation that are changing.

For changes to existing regulation(s), please use the following chart:

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
12 VAC 30-141-880	N/A	Regulations Associated with Third Trimester Managed Care Exclusion.	Repeals these unnecessary and limiting regulations.