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# VIRGINIA STATE BUDGET

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2006 Special Session I

## Budget Bill - HB5002 (Introduced)

Bill Order » Office of Health and Human Resources » Item 302

Department of Medical Assistance Services

### Item 302

	First Year - FY2007	Second Year - FY2008
<b>Medicaid Program Services (45600)</b>	<b>\$4,989,007,434</b>	<b>\$5,325,426,176</b>
Reimbursements to State-Owned Mental Health and Mental Retardation Facilities (45607)	\$210,412,730	\$203,128,980
Reimbursements for Mental Health and Mental Retardation Services (45608)	\$308,967,227	\$330,046,469
Reimbursements for Professional and Institutional Medical Services (45609)	\$3,150,463,169	\$3,416,972,471
Reimbursements for Long-Term Care Services (45610)	\$1,319,164,308	\$1,375,278,256
Fund Sources:		
General	\$2,264,980,286	\$2,427,352,963
Dedicated Special Revenue	\$329,694,578	\$341,427,897
Federal Trust	\$2,394,332,570	\$2,556,645,316

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Authority: Title 32.1, Chapters 9 and 10, Code of Virginia; P.L. 89-87, as amended, Title XIX, Social Security Act, Federal Code.

A. It is the intent of the General Assembly to develop and cause to be developed appropriate, fiscally responsible methods for addressing the issues related to the cost and funding of long-term care. It is the further intent of the General Assembly to promote home-based and community-based care for individuals who are determined to be in need of nursing facility care.

B.1. The Director of the Department of Medical Assistance Services shall seek the necessary waivers from the United States Department of Health and Human Services to authorize the Commonwealth to cover health care services and delivery systems, as may be permitted by Title XIX of the Social Security Act, which may provide less expensive alternatives to the State Plan for medical assistance.

2. The Director shall promulgate such regulations as may be necessary to implement those programs which may be permitted by Titles XIX and XXI of the Social Security Act, in conformance with all requirements of the Administrative Process Act.

C.1. The appropriation includes \$105,206,365 the first year from the general fund and \$105,206,365 from the federal trust fund and \$101,564,490 the second year from the general fund and \$101,564,490 from the federal trust fund for reimbursement to the institutions within the Department of Mental Health, Mental Retardation and Substance Abuse Services. The Department of Mental Health, Mental Retardation and Substance Abuse Services

shall be reimbursed for the federal share of general salary scale adjustments approved by the General Assembly.

2. The appropriation includes the first year \$176,272,486 from the general fund and \$176,272,486 from the federal trust fund, and the second year \$187,831,134 from the general fund and \$187,831,134 from the federal trust fund for estimated reimbursements for services provided to individuals on the Mental Retardation Waiver or the Mental Retardation Day Support Waiver.

D. Out of this appropriation, the Department of Medical Assistance Services shall provide coverage of intensive assisted living care to residents of licensed Adult Care Residences who are Auxiliary Grant recipients. Individuals entitled to benefits under this section are not entitled to benefits under Item 304.

E. If any part, section, subsection, paragraph, clause, or phrase of this Item or the application thereof is declared by the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services to be in conflict with a federal law or regulation, such decisions shall not affect the validity of the remaining portions of this Item, which shall remain in force as if this Item had passed without the conflicting part, section, subsection, paragraph, clause, or phrase. Further, if the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services determines that the process for accomplishing the intent of a part, section, subsection, paragraph, clause, or phrase of this Item is out of compliance or in conflict with federal law and regulation and recommends another method of accomplishing the same intent, the Director of the Department of Medical Assistance Services, after consultation with the Attorney General, is authorized to pursue the alternative method.

F.1. Included in this appropriation is \$59,243,568 from the general fund and \$59,243,568 from nongeneral funds in the first year and \$62,037,416 from the general fund and \$62,037,416 from nongeneral funds in the second year to reimburse the Virginia Commonwealth University Health System for indigent health care costs and Medicaid losses. This funding is comprised of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.

2. Included in this appropriation is \$35,298,153 from the general fund and \$35,298,153 from nongeneral funds in the first year and \$38,000,957 from the general fund and \$38,000,957 from nongeneral funds in the second year to reimburse the University of Virginia Health System for indigent health care costs and Medicaid losses. This funding is comprised of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.

G. The Department shall establish a program to more effectively manage those Medicaid recipients who receive the highest cost care. To implement the program, the Department shall establish uniform criteria for the program, including criteria for the high cost recipients, providers and reimbursement, service limits, assessment and authorization limits, utilization review, quality assessment, appeals and other such criteria as may be deemed necessary to define the program. The Department shall seek any necessary approval from the Centers for Medicare and Medicaid Services, and shall promulgate such regulations as may be deemed necessary to implement this program.

H. The Department of Medical Assistance Services and the Virginia Department of Health shall work with representatives of the dental community: to expand the availability and delivery of dental services to pediatric Medicaid recipients; to streamline the administrative processes; and to remove impediments to the efficient delivery of dental services and reimbursement thereof. The Department of Medical Assistance Services shall report its efforts to expand dental services to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget by December 15 each year.

I. The Department of Medical Assistance Services shall implement continued enhancements to the prospective

drug utilization review (pro-DUR) program. The Department shall continue the Pharmacy Liaison Committee and the pro-DUR Committee. The Department shall continue to work with the Pharmacy Liaison Committee to implement initiatives for the promotion of cost-effective services delivery as may be appropriate. The Department shall report on the Pharmacy Liaison Committee's and the pro-DUR Committee's activities to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget no later than December 15 each year of the biennium.

J. It is the intent of the General Assembly that the medically needy income limits for the Medicaid program are adjusted annually to account for changes in the Consumer Price Index.

K. The Department of Medical Assistance Services shall not require dentists who agree to participate in the delivery of Medicaid pediatric dental care services, or services provided to enrollees in the Family Access to Medical Insurance Security (FAMIS) Plan or any variation of FAMIS, to also deliver services to subscribers enrolled in commercial plans of the managed care vendor, unless the dentist is a willing participant in the commercial managed care plan.

L. It is the intent of the General Assembly that the use of the new atypical medications to treat seriously mentally ill Medicaid recipients should be supported by the formularies used to reimburse claims under the Medicaid fee-for-service and managed care plans.

M.1. The Department of Medical Assistance Services shall have the authority to seek federal approval of changes to its MEDALLION waiver and its Medallion II waiver.

2. In order to conform the state regulations to the federally approved changes and to implement the provisions of this act, the Department shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act. The Department shall implement these necessary regulatory changes to be consistent with federal approval of the waiver changes.

N.1. The Department of Medical Assistance Services shall develop and pursue cost saving strategies internally and with the cooperation of the Department of Social Services, Virginia Department of Health, Office of the Attorney General, Comprehensive Services Act program, Department of Education, Department of Juvenile Justice, Department of Mental Health, Mental Retardation and Substance Abuse Services, Virginia Department for the Aging, Department of the Treasury, University of Virginia Health System, Virginia Commonwealth University Health System Authority, Department of Corrections, federally qualified health centers, local health departments, local school divisions, community service boards, local hospitals, and local governments, that focus on optimizing Medicaid claims and cost recoveries.

2. The Department shall track revenues and submit a status report on the successful implementation of any strategies to the Department of Planning and Budget by October 15 in each year of the biennium. The report shall include revenues generated for both the department and other agencies.

3. Whenever feasible the affected agency shall either (i) administratively transfer to the Department the general fund appropriation needed to implement the proposed savings initiative and the estimated general fund savings related to the initiative or (ii) the Department of Medical Assistance Services reimbursement to the affected agency shall be limited to the federal share of the Medicaid reimbursement, with the affected agency responsible for providing the state share; the affected agency shall still be responsible for transferring to the Department the estimated savings related to the initiative. In cases where the above options are not feasible, the Medicaid savings paid by the identified service providers pursuant to these strategies shall be recovered and deposited into the state treasury as nongeneral fund revenue or as an expenditure refund. Any revenues generated through these activities shall be deposited into the Virginia Health Care Fund to be used for the purposes specified in this Item.

O. The Department of Medical Assistance Services shall retain the savings necessary to reimburse a vendor for its

efforts resulting from the Department's Request for Proposals, issued on August 30, 2001, and titled Maximizing Federal Reimbursement. However, prior to reimbursement, the Department shall identify for the Secretary of Health and Human Resources each of the vendor's revenue maximization efforts and the manner in which each vendor would be reimbursed. No reimbursement shall be made to the vendor without the prior approval of the above plan by the Secretary.

P. The Department of Medical Assistance Services in cooperation with the State Executive Council, shall provide semi-annual training to local Comprehensive Services Act teams on the procedures for use of Medicaid for residential treatment and treatment foster care services, including, but not limited to, procedures for determining eligibility, billing, reimbursement, and related reporting requirements. The Department shall include in this training information on the proper utilization of inpatient and outpatient mental health services as covered by the Medicaid State Plan. The Department shall report annually, by June 30, to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget on the results of the training program. The report shall include the number of local team representatives attending formal training programs offered by the Department; the number of technical assistance requests responded to by the Department; and the type and amounts of training materials made available to the local teams.

Q. The Department of Medical Assistance Services shall discontinue efforts to seek approval for a Research and Demonstration 1115 Waiver for the management of chronic care conditions of elderly and disabled persons through the Virginia Area Agencies on Aging using funds previously allocated for elderly case management under the department of Medical Assistance Services' State Plan. The department shall amend the State Plan for Medical Assistance Services to restore elderly case management services as a state plan service. The department shall promulgate emergency regulations to become effective within 280 days or less from the enactment date of this act. The department shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

R. Contingent upon approval by the Centers for Medicare and Medicaid Services to implement a new Independence Plus Home and Community Based Services Waiver, the Department of Medical Assistance Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment date of this act. The department shall implement these necessary regulatory changes to be consistent with federal approval of the waiver application developed by the department and stakeholders. In the event a recipient of a waiver slot under the Independence Plus Home and Community Based Services Waiver exits the program, funding for the slot shall revert to the waiver program from which the recipient came.

S.1. Notwithstanding § [32.1-331.12](#) et seq., Code of Virginia, the Department of Medical Assistance Services, in consultation with the Department of Mental Health, Mental Retardation and Substance Abuse Services, shall amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a Preferred Drug List. In developing the modifications, the department shall consider input from physicians, pharmacists, pharmaceutical manufacturers, patient advocates, and others, as appropriate.

2.a. The department shall utilize a Pharmacy and Therapeutics Committee to assist in the development and ongoing administration of the Preferred Drug List program. The Pharmacy and Therapeutics Committee shall be composed of 8 to 12 members, including the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services, or his designee. Other members shall be selected or approved by the department. The membership shall include a ratio of physicians to pharmacists of 2:1 and the department shall ensure that at least one-half of the physicians and pharmacists are either direct providers or are employed with organizations that serve recipients for all segments of the Medicaid population. Physicians on the Committee shall be licensed in Virginia, one of whom shall be a psychiatrist, and one of whom specializes in care for the aging. Pharmacists on the Committee shall be licensed in Virginia, one of whom shall have clinical expertise in mental health drugs, and one of whom has clinical expertise in community-based mental health treatment. The Pharmacy and Therapeutics Committee shall recommend to the Department (i) which therapeutic classes of drugs should be subject to the Preferred Drug List program and prior authorization requirements; (ii) specific drugs within each

therapeutic class to be included on the preferred drug list; (iii) appropriate exclusions for medications, including atypical anti-psychotics, used for the treatment of serious mental illnesses such as bi-polar disorders, schizophrenia, and depression; (iv) appropriate exclusions for medications used for the treatment of brain disorders, cancer and HIV-related conditions; (v) appropriate exclusions for therapeutic classes in which there is only one drug in the therapeutic class or there is very low utilization, or for which it is not cost-effective to include in the Preferred Drug List program; and (vi) appropriate grandfather clauses when prior authorization would interfere with established complex drug regimens that have proven to be clinically effective. In developing and maintaining the preferred drug list, the cost effectiveness of any given drug shall be considered only after it is determined to be safe and clinically effective.

b. The Pharmacy and Therapeutics Committee shall schedule meetings at least quarterly and may meet at other times at the discretion of the Chairperson and members. At the meetings, the Pharmacy and Therapeutics committee shall review any drug in a class subject to the Preferred Drug List that is newly approved by the Federal Food and Drug Administration, provided there is at least thirty (30) days notice of such approval prior to the date of the quarterly meeting.

3. The department shall establish a process for acting on the recommendations made by the Pharmacy and Therapeutics Committee, including documentation of any decisions which deviate from the recommendations of the Committee.

4. The Preferred Drug List program shall include provisions for (i) the dispensing of a 72-hour emergency supply of the prescribed drug when requested by a physician and a dispensing fee to be paid to the pharmacy for such supply; (ii) prior authorization decisions to be made within 24 hours and timely notification of the recipient and/or the prescribing physician of any delays or negative decisions; (iii) an expedited review process of denials by the department; and (iv) consumer and provider education, training and information regarding the Preferred Drug List prior to implementation, and ongoing communications to include computer access to information and multilingual material.

5. The Preferred Drug List program shall generate savings as determined by the department that are net of any administrative expenses to implement and administer the program.

6. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, to implement these changes, the Department of Medical Assistance Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act. With respect to such state plan amendments and regulations, the provisions of § 32.1-331.12 et seq., Code of Virginia, shall not apply. In addition, the department shall work with the Department of Mental Health, Mental Retardation, and Substance Abuse Services to consider utilizing a Preferred Drug List program for its non-Medicaid clients.

7. The Department of Medical Assistance Services shall exempt antidepressant and anti-anxiety medications used for the treatment of mental illness from the Medicaid Preferred Drug List program.

8. The department shall provide to the Governor; the House Committees on Appropriations, and Health, Welfare and Institutions; the Senate Committees on Finance, and Education and Health; and the Joint Commission on Health Care a report on the Preferred Drug List (PDL) Program no later than November 1 of each year. The report shall include the direct savings attributed to the PDL for the prior fiscal year, an estimated savings of the program for the next fiscal year, and the cost to administer the PDL. The report shall also include an analysis of the impact of the program on patient health including, but not limited to, hospitalizations and emergency outpatient visits.

T. The Department of Medical Assistance Services shall reimburse school divisions who sign an agreement to provide administrative support to the Medicaid program and who provide documentation of administrative expenses related to the Medicaid program 50 percent of the Federal Financial Participation by the department.

U. Contingent upon approval by the Centers for Medicare and Medicaid Services, the Department of Medical Assistance Services shall implement coverage for an additional level of Residential Treatment for Children and Adolescents. The state match will be obtained from Comprehensive Services Act funds. The Department shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act. The Department shall implement these necessary regulatory changes to be consistent with federal approval of the State Plan amendment.

V. In the event that the Department of Medical Assistance Services decides to contract for pharmaceutical benefit management services to administer, develop, manage, or implement Medicaid pharmacy benefits, the Department shall establish the fee paid to any such contractor based on the reasonable cost of services provided. The Department may not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses cannot be based on the percentage of cost savings generated under the benefit management of services.

W. The Department of Medical Assistance Services shall develop, in conjunction with affected constituents, a waiver pursuant to §1915(c) of the Social Security Act (42 U.S.C. 1396n) from the Centers for Medicaid and Medicare Services to establish a home and community-based care waiver for persons with Alzheimer's disease and related dementias ("Alzheimer's/Dementia Assisted Living Waiver"). The Alzheimer's/Dementia Assisted Living Waiver shall be for those individuals who meet the functional criteria for admission to a nursing facility, who have a diagnosis of Alzheimer's disease or a related dementia, and who are eligible to receive an Auxiliary Grant. The waiver enrollment for the first year of such program shall be limited to an enrollment of 200 individuals who choose to move to an assisted living facility. The agency shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act.

X. Contingent upon approval by the Centers for Medicare and Medicaid Services of a §1115 waiver for a Medicaid Buy-In Program pursuant to Chapter 489 of the Acts of Assembly of 2003, the Department of Medical Assistance Services shall implement such waiver. The agency shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act.

Y.1. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to modify the reimbursement methodology used to reimburse for generic drug products. The new methodology shall reimburse for the product cost based on a Maximum Allowable Cost list to be established by the department. Such amendments shall be effective within 280 days or less from the enactment of this act.

2. In developing the maximum allowable cost (MAC) reimbursement rate for generic pharmaceuticals, the department shall: (i) publish the factors used to set state MAC rates, including the identity of the reference product used to set the MAC rate; the GCN number of the reference product; the factor by which the MAC rate exceeds the reference product price, which shall be not less than 110 percent of the lowest-published wholesale acquisition cost for products widely available for purchase in the state, and included in national pricing compendia; and the identity and date of the published compendia used to determine the reference product and set the MAC rate; (ii) identify three different suppliers that are able to supply the product and from whom pharmacies are able to purchase sufficient quantities of the drug. The drugs considered must be listed as therapeutically and pharmaceutically equivalent in the FDA's most recent version of the "Orange Book"; (iii) identify that the use of a MAC rate is lower than the Federal Upper Limit (FUL) for the drug, or the development of a MAC rate that does not have a FUL will not result in the use of higher-cost innovator brand name or single source drugs in the Medicaid program; and (iv) distribute the list of state MAC rates to pharmacy providers in a timely manner prior to the implementation of MAC rates and subsequent modifications.

3. The department shall: (i) review and update the list of MAC rates at least quarterly; (ii) implement and maintain a procedure to eliminate products from the list, or modify MAC rates, consistent with changes in the marketplace;

and (iii) provide an administrative appeals procedure to allow a dispensing provider to contest a listed MAC rate.

4. The department shall report on savings achieved through the implementation of the Maximum Allowable Cost rates for generic pharmacy products in the Medicaid pharmacy program to the Chairmen of the House Appropriations and Senate Finance Committees, the Joint Commission on Health Care, and the Department of Planning and Budget by January 1 of each year.

Z. Out of this appropriation, the dedicated special fund appropriation for Medical Assistance Services includes \$329,694,578 the first year and \$341,427,897 the second year from the Virginia Health Care Fund.

AA. The Department of Medical Assistance Services shall ensure that in the process of developing the Preferred Drug List, the Pharmacy and Therapeutics Committee considers the value of including those prescription medications which improve drug regimen compliance, reduce medication errors, or decrease medication abuse through the use of medication delivery systems that include, but are not limited to, transdermal and injectable delivery systems.

BB. The Department of Medical Assistance Services, in cooperation with the Department of Social Services' Division of Child Support Enforcement, shall identify and initiate third party recovery actions where there is a medical support order requiring a noncustodial parent to contribute to the medical cost of a child who is enrolled in the Medicaid or Family Access to Medical Insurance Security (FAMIS) Programs.

CC. In developing a long-term disease state management program, the Department of Medical Assistance Services shall consider including initiatives which positively impact health care costs in children and adults with asthma and other chronic diseases.

DD.1. The Department of Medical Assistance Services shall have the authority to amend the State Plan for Medical Assistance Services governing Medicaid reimbursement for nursing facilities effective July 1, 2006. The provision to increase the ceilings by \$3 per day shall be deleted. In its place, the department shall amend the State Plan to eliminate administrator salary limits, medical director salary limits and management fee limits, except when the administrator, medical director or contracted management firm is a related party, and set the indirect care ceiling at 106.13 percent of the day weighted median of base year cost. In addition, \$3 per resident day, adjusted for inflation from FY 2006, multiplied times Medicaid utilization and allocated proportionately between direct and indirect cost, shall be added to facility specific cost per day used to set prospective rates to the extent those facility specific costs are from a cost reporting period that includes any days before July 1, 2005. This amendment to the State Plan shall become effective within 280 days from enactment of this act.

2. In addition to the changes in paragraph DD.1. in this Item, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance Services governing Medicaid reimbursement for nursing facilities to set the direct care ceiling at 117 percent and the indirect care ceiling at 107 percent of the day weighted median of base year cost, effective July 1, 2006. Out of this appropriation, \$3,904,150 from the general fund and \$3,904,150 from nongeneral funds the first year and \$4,036,891 from the general fund and \$4,036,891 from nongeneral funds in the second year is provided to increase the ceilings. This amendment to the State Plan shall become effective within 280 days from enactment of this act.

EE. To maintain the funding levels for indigent care, the Department of Medical Assistance Services shall have the authority to amend the State Plan of Medical Assistance to increase payments to physicians who are faculty affiliated with Type I hospitals or related universities. The amount of the total payment shall be up to the upper payment limit for these services as permitted by federal Medicaid law and regulation. Contingent upon federal approval, the Department of Medical Assistance Services shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.

FF. Within the limits of this appropriation, the Department of Medical Assistance Services shall work with its

contracted managed care organizations and fee-for-service health care providers to: (i) raise awareness among the providers who serve the Medicaid population about the health risks of chronic kidney disease; (ii) establish effective means of identifying patients with this condition; and (iii) develop strategies for improving the health status of these patients. The Department shall work with the National Kidney Foundation to prepare and disseminate information for physicians and other health care providers regarding generally accepted standards of clinical care and the benefits of early identification of individuals at highest risk of chronic kidney disease.

GG.1. The Director of the Department of Planning and Budget is authorized to transfer amounts, as needed, from Medicaid Program Services (program 45600) to Administrative and Support Services (program 49900) to fund administrative expenditures associated with contracts between the Department of Medical Assistance Services and companies providing disease state and chronic care management programs services for Medicaid recipients. The Department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.

2. The department shall report on its efforts to contract for and implement disease state management programs in the Medicaid program by November 1 of each year of the biennium, to the Chairmen of the Senate Finance and House Appropriations Committees and the Department of Planning and Budget. The report shall include estimates of savings that may result from such programs.

HH.1. Notwithstanding the provisions of § 32.1-325.1:1, Code of Virginia, upon identifying that an overpayment for medical assistance services has been made to a provider, the Director of the Department of Medical Assistance Services shall notify the provider of the amount of the overpayment. Such notification of overpayment shall be issued within the earlier of (i) four years after payment of the claim or other payment request, or (ii) four years after filing by the provider of the complete cost report as defined in the Department of Medical Assistance Services' regulations, or (iii) 15 months after filing by the provider of the final complete cost report as defined in the Department of Medical Assistance Services' regulations subsequent to sale of the facility or termination of the provider.

2. Notwithstanding the provisions of § 32.1-325.1, Code of Virginia, the Director shall issue an informal fact-finding conference decision concerning provider reimbursement in accordance with the State Plan for Medical Assistance, the provisions of § 2.2-4019, Code of Virginia, and applicable federal law. The informal fact-finding conference decision shall be issued within 180 days of the receipt of the appeal request. If the agency does not render an informal fact-finding conference decision within 180 days of the receipt of the appeal request, the decision is deemed to be in favor of the provider. An appeal of the Director's informal fact-finding conference decision concerning provider reimbursement shall be heard in accordance with § 2.2-4020 of the Administrative Process Act (§ 2.2-4020 et seq.) and the State Plan for Medical Assistance provided for in § 32.1-325, Code of Virginia. Once a final agency case decision has been made, the Director shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the informal fact-finding conference decision or the final agency case decision. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313, Code of Virginia, from the date the Director's agency case decision becomes final.

II. Any hospital that was designated a Medicare-dependent small rural hospital, as defined in 42 U.S.C. §1395ww (d) (5) (G) (iv) prior to October 1, 2004, shall be designated a rural hospital pursuant to 42 U.S.C. §1395ww (d) (8) (ii) (II) on or after September 30, 2004.

JJ.1. The Department of Medical Assistance Service shall amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a specialty drug program.

2. In developing the specialty drug program to control drug expenditures, the department shall contract with a vendor who will develop a methodology for the reimbursement and utilization of specialty drugs and distribute the list of specialty drug rates, authorized drugs and utilization guidelines to medical and pharmacy providers in a timely manner prior to the implementation of the specialty drug program.



3. The department shall: (i) review and update the list of authorized specialty drugs, utilization guidelines, and rates at least quarterly; (ii) implement and maintain a procedure to revise the list or modify specialty drug program utilization guidelines and rates, consistent with changes in the marketplace; and (iii) provide an administrative appeals procedure to allow dispensing or prescribing provider to contest the listed specialty drugs and rates.

4. The department shall report on savings and quality improvements achieved through the implementation measures for the specialty drug program to the Chairmen of the House Appropriations and Senate Finance Committees, the Joint Commission on Health Care, and the Department of Planning and Budget by September 15 of each year.

5. The department shall have authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act to effect these provisions.

KK. The Department of Medical Assistance Services shall amend the State Plan of Medical Assistance Services to increase the physician/practitioner reimbursement fees in the following manner effective July 1, 2007: evaluation and management procedures, as defined by the American Medical Association's annual publication of the Current Procedural Terminology manual, provided to children under the age of twenty-one shall be increased by three percent; reimbursement fees for obstetrical/gynecological services which were increased on September 1, 2004, shall not be increased; all other physician rates shall be increased three percent. The Department of Medical Assistance Services shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.

LL. The Department of Medical Assistance Services shall amend the Medicaid Mental Retardation Waiver, and any related state regulations, to add 110 new slots which will be reserved for children under the age of 6. The Department of Medical Assistance Services shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.

MM. The Department of Medical Assistance Services shall amend all §1915(c) home and community-based care waivers, excluding the AIDS Waiver, and any related state regulations to set patient pay requirements at 150 percent of Supplemental Security Income for individuals enrolled in the waivers. The Department of Medical Assistance Services shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.

NN. The Department of Medical Assistance Services has the authority to implement cost-based reimbursement for special education health services furnished by school division providers effective July 1, 2006. School division providers shall file annual cost reports for these services and the department shall settle reimbursement to actual costs. Reimbursement to school divisions shall continue to be subject to the provisions of § 32.1-326.3(A)(1) of the Code of Virginia that only the federal share shall be reimbursed for special education health services and that local governments fund the state match for special education health services provided by school divisions. The Department shall have the authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act to effect this provision.

OO. The Department of Medical Assistance Services shall increase adult day health care reimbursement rates provided under Medicaid home and community based waiver programs by five percent effective January 1, 2007.

PP. The Department of Medical Assistance Services shall amend the State Plan of Medical Assistance Services governing Medicaid reimbursements for hospitals to set the adjustment factor for Type 2 hospitals equal to 78 percent, effective July 1, 2006.

QQ. The Department of Medical Assistance Services shall work with representatives of the nursing home provider associations to develop a revised cost-reporting methodology which improves the timeliness and efficiency of the

current process. The department shall report its findings and recommendations to the Governor and the Chairman of the House Appropriations and Senate Finance Committees by September 1, 2006.

RR.1. The Department of Medical Assistance Services shall amend or include as part of its disease state management contract a pilot project for children's obesity. The department shall conduct the pilot in fee-for-service localities of Southwest Virginia. Out of this appropriation \$170,100 from the general fund and \$179,900 from federal funds in the first year, and \$170,100 from the general fund and \$179,900 from federal funds in the second year, is provided for this purpose. The department is authorized to accept and use any private funding provided for the obesity pilot program. The number of participants in the pilot program shall be restricted to the available resources provided for the obesity pilot program.

2. Out of this appropriation, the Department of Medical Assistance Services is authorized to transfer \$32,000 the first year from the general fund and \$32,000 the second year from the general fund to the Virginia Cooperative Extension for nutritional education services for participants in the obesity pilot.

SS. Out of this appropriation, \$250,000 from the general fund the first year shall be transferred to the Uninsured Medical Catastrophe Fund under § [32.1-324.3](#), Code of Virginia.