



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

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On March 12, 2020, through Executive Order 51, Governor Ralph Northam declared a state of emergency due to the outbreak of the coronavirus (COVID-19). In his order Governor Northam directed state agencies to work towards mitigating the impact COVID-19 on individuals in Virginia; to that end, he authorized executive branch agency directors to waive any state requirement or regulation deemed necessary to combat the effects of COVID-19 on the Commonwealth's citizens.

Pursuant to the authority granted to the agency head by Executive Order 51 (2020), I hereby waive the Medicaid and FAMIS program requirements set out below. This waiver shall take effect as of March 12, 2020, and shall remain in full force and in effect until June 10, 2020, or unless sooner amended, or rescinded by further executive order.

DMAS is waiving provisions of the state regulations cited in this letter in order to fully leverage requested federal flexibilities available under federal law during an emergency. While full regulatory citations are provided for ease of reference, note that regulatory waivers are specific to the provision described herein.

1. TELEMEDICINE

Until the expiration of the Executive Order, DMAS is permitting telemedicine and telecommunications methods of service delivery through audio or visual connections and is permitting Medicaid members to participate in services from their homes. DMAS is waiving penalties for certain aspects of HIPAA non-compliance in accordance with guidance from the federal Office of Civil Rights. This flexibility during the emergency will maximize access to care while minimizing viral spread through community contact. In addition, it is possible that Medicaid members may not have access to places that afford full privacy during telehealth sessions. In those cases, privacy requirements may be waived at the request of the Medicaid member.

12 VAC 30-20-90 (C), (D) - Confidentiality and Disclosure of Information Concerning Medicaid Applicants and Recipients

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter20/section90/>

12VAC30-130-5020 – Definitions ("Telemedicine")

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter130/section5020/>

2. SERVICE AUTHORIZATIONS

DMAS is waiving service authorizations (prior authorization) for certain services. Specifically, the Agency is temporarily suspending authorization requirements for certain home health, durable medical equipment and computed tomography scans. In addition, DMAS is allowing a grace period to submit service authorization requests for Community Mental Health and Rehabilitation and ARTS Services.

12 VAC 30-50-160 (B), (D) – Home Health Services.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section160/>

12 VAC 30-50-165 (B)(9) – Durable Medical Equipment Suitable for Use in the Home.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section165/>

12VAC30-50-120 (B) Other Laboratory and X-Ray Services.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section120/>

12 VAC 30-50-130 (C)(2)(a) - Nursing Facility Services, ESPDT, Including School Health Services, and Family Planning.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section130/>

12VAC30-50-226 (B)(6) - Community Mental Health Services.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section226/>

3. CLIENT APPEALS

For all appeals filed during the state of emergency, Medicaid members will automatically keep their coverage while the appeal is proceeding. Medicaid managed health plans will also approve continued coverage while their internal appeal process is underway. There will be no financial recovery for continued coverage for appeals filed during the period of the emergency.

All DMAS State Fair Hearings will be conducted by telephone. DMAS will grant all requests to reschedule hearings.

12 VAC 30-110-100(B) - Maintaining Services.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter110/section100/>

12 VAC 30-110-230(B) - Scheduling and Rescheduling.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter110/section230/>

12 VAC 30-110-260 - Postponement.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter110/section260/>

12 VAC 30-110-350(A)(2) - Dismissal of Request for Appeal.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter110/section350/>

12 VAC 30-120-420(C)(1)(2) & (H) - Member Grievances and Appeals.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter120/section420/>

4. WAIVE OUT-OF-POCKET COSTS TO MEMBER

All member co-pays have been suspended, effective March 13, 2020. No co-pays will be collected from any Medicaid or FAMIS member in order to encourage all members to seek needed medical care and treatment.

12 VAC 30-10-570(B)(3) and (C) - Recipient Cost Sharing and Similar Charges.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter10/section570/>

12 VAC 30-20-150 - Copayments and Deductibles for Categorically Needy and QMBs for Services Other Than under 42 CFR 447.53.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter20/section150/>

12 VAC 30-20-160 - Copayments and Deductibles for Medically Needy and QMBs for Services Other Than under 42 CFR 447.53.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter20/section160/>

5. PRESCRIPTION LIMITS

DMAS will allow providers to prescribe for 90-day supply of needed medications for patients, excluding Schedule II drugs.

12 VAC 30-50-210(A)(3) - Prescribed Drugs, Dentures, and Prosthetic Devices, and Eyeglasses Prescribed by a Physician Skilled in Diseases of the Eye or by an Optometrist.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section210/>

6. WAIVE FACE-TO-FACE REQUIREMENTS

DMAS is waiving certain face-to-face service requirements in order to maximize access to care while minimizing viral spread through community contact.

Case Management – face-to-face requirements for the following case management services will be waived.

12 VAC 30-50-420(A)(1) - Case Management Services for Seriously Mentally Ill Adults and Emotionally Disturbed Children.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section420/>

12 VAC 30-50-430(A)(1) - Case Management Services for Youth at Risk of Serious Emotional Disturbance.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section430/>

12 VAC 30-50-440(A)(1) - Case Management Services for Individuals with Mental Retardation.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section440/>

12 VAC 30-50-490(A)(1) - Case Management for Individuals with Developmental Disabilities, Including Autism.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section490/>

12 VAC 30-50-491(A)(1) - Substance Use Case Management Services for Individuals Who Have a Primary Diagnosis of Substance Use Disorder.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section491/>

12 VAC 30-50-415(D)(2) - Case Management Services for Receiving Early Intervention (Part C) Services. *(note: this section does not include the 90-day limitation)*

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section415/>

12 VAC 30-60-143(F)(1) - Mental Health Services Utilization Criteria; Definitions.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section143/>

12 VAC 30-130-930(E)(1) and (2) - Organization and Administration Requirements.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter130/section930/>

Long-Term Services and Supports and CCC Plus Waiver services — face-to-face requirements for the following services will be waived.

12 VAC 30-60-70(D) - Utilization Control: Home Health Services.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section70/>

12 VAC 30-60-145(2) - Mental Retardation Utilization Criteria

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section145/>

12 VAC 30-60-301 – Definitions. screening for Activities of Daily Living

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section301/>

12 VAC 30-60-302(B) – Access to Medicaid-Funded Long-Term Services and Supports.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section302/>

12VAC30-60-304(C) - Requests and Referrals for Screening for Adults and Children Living in the Community and Adults and Children in Hospitals.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section304/>

12 VAC 30-120-924(L)(3)(e) - Covered Services; Limits on Covered Services.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter120/section924/>

12VAC30-120-935(H)(4)(b) and (H)(6) - Participation Standards for Specific Covered Services.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter120/section935/>

Behavioral Health and ARTS services – face-to-face requirements for the following services will be waived.

12 VAC 30-50-130(C)(1), (D)(1), D(2)(d)(2), (D)(3)(g)(2)(a), and (D)(3)(h)(1) – Nursing Facility Services, EPSDT, Including School Health Services, and Family Planning.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section130/>

12VAC30-50-226(B)(1)(d), (B)(5), (B)(6)(e) - Community Mental Health Services.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section226/>

12 VAC 30-60-61(C)(3), (F)(4) - Services Related to the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT); Community Mental Health and Behavioral Therapy Services for Children.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section61/>

12 VAC 30-60-143(E)(2), (E)(7), H(1), I(1), I(12) - Mental Health Services Utilization Criteria; Definitions.

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section143/>

12VAC30-130-5020 – Definitions ("Multidimensional assessment")

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter130/section5020/>

12VAC30-130-5210(J), (L), (M) – Peer Support Services and Family Support Partners: Limitations and Exclusions to Service Delivery

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter130/section5210/>

12 VAC 30-60-185(B) and (C) - Utilization Review of Substance Use Case Management

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section185/>

12 VAC 30-130-5190(E) - Peer Support Services and Family Support Partners: Provider and Setting Requirements

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter130/section5190/>

7. ADDITIONAL BEHAVIORAL HEALTH CHANGES

DMAS is waiving certain discharge requirements if an individual is ready for a lower level of care, and is waiving the requirement that discharge is required if there are no services for 31 days.

12 VAC 30-50-130(D)(2)(c)(4) and (D)(2)(g)(4) Nursing Facility Services, EPSDT, Including School Health Services, and Family Planning

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter50/section130/>

12 VAC 30-60-61(C)(14), (D)(17) Services Related to the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT); Community Mental Health and Behavioral Therapy Services for Children

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter60/section61/>

8. ELIGIBILITY AND ENROLLMENT

DMAS is waiving certain requirements in order for current enrollees to maintain continuity of coverage in Medicaid and FAMIS.

Address requirements – in accordance with 42 CFR § 435.403(j)(3) and 42 CFR § 457.320(e), requirements for members who are temporarily displaced from the state of Virginia will be waived.

12VAC30-40-10(4) General Conditions of Eligibility

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter40/section10/>

12VAC30-40-10(4) General Conditions of Eligibility

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter40/section10/>

12VAC30-30-10(6) Mandatory Coverage: Categorically Needy and Other Required Special Groups

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter30/section10/>

Redetermination of Eligibility – In accordance with Section 6008 of the Families First Coronavirus Response Act, requirements for annual redetermination of eligibility and redetermination due to a change in circumstances will be waived.

12VAC30-141-110(B) Duration of Eligibility and Renewal

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter141/section110/>

12VAC30-141-110(C) Duration of Eligibility and Renewal

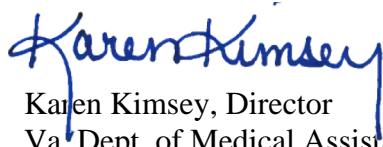
<https://law.lis.virginia.gov/admincode/title12/agency30/chapter141/section110/>

12VAC30-141-150(N) Application Requirements

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter141/section150/>

12VAC30-141-175(C) FAMIS Select

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter141/section175/>

A handwritten signature in blue ink that reads "Karen Kimsey". The signature is written in a cursive style with a large initial 'K'.

Karen Kimsey, Director
Va. Dept. of Medical Assistance Services