

HOUSE BILL NO. 425

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services
on _____)

(Patron Prior to Substitute—Delegate LeVere Bolling)

A BILL to amend and reenact § 32.1-325 of the Code of Virginia, relating to Department of Medical Assistance Services; remote monitoring services through pregnancy and postpartum for high-risk pregnant patients and patients with advanced maternal age; reimbursement.

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-325 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

13 A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time,
14 and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services
15 pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall
16 include in such plan:

17 1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in
18 foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the
19 Department of Social Services or placed through state and local subsidized adoptions to the extent permitted
20 under federal statute;

21 2. A provision for determining eligibility for benefits for medically needy individuals which disregards
22 from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of
23 \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual
24 or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an
25 individual owned by the individual or his spouse if the cash surrender value of such policies has been
26 excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or
27 other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial
28 expenses;

29 3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy
30 persons whose eligibility for medical assistance is required by federal law to be dependent on the budget

31 methodology for Aid to Families with Dependent Children, a home means the house and lot used as the
32 principal residence and all contiguous property. For all other persons, a home shall mean the house and lot
33 used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive
34 of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as
35 provided here is more restrictive than that provided in the state plan for medical assistance services in
36 Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal
37 residence and all contiguous property essential to the operation of the home regardless of value;

38 4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are
39 Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

40 5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance
41 of the individual's spouse at home;

42 6. A provision for payment of medical assistance on behalf of pregnant women which provides for
43 payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most
44 current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American
45 Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for
46 Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists.

47 Payment shall be made for any postpartum home visit or visits for the mothers and the children which are
48 within the time periods recommended by the attending physicians in accordance with and as indicated by
49 such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include
50 any changes thereto within six months of the publication of such Guidelines or Standards or any official
51 amendment thereto;

52 7. A provision for the payment for family planning services on behalf of women who were Medicaid-
53 eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning
54 services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the
55 financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section,
56 family planning services shall not cover payment for abortion services and no funds shall be used to perform,
57 assist, encourage or make direct referrals for abortions;

58 8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow
59 transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast

60 cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a
61 performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant.
62 Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

63 9. A provision identifying entities approved by the Board to receive applications and to determine
64 eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate
65 contact information, including the best available address and telephone number, from each applicant for
66 medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for
67 medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of
68 Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how
69 the applicant may make an advance directive;

70 10. A provision for breast reconstructive surgery following the medically necessary removal of a breast
71 for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all
72 medically necessary indications. Such procedures shall be considered noncosmetic;

73 11. A provision for payment of medical assistance for annual pap smears;

74 12. A provision for payment of medical assistance services for prostheses following the medically
75 necessary complete or partial removal of a breast for any medical reason;

76 13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient
77 treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care
78 following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or
79 trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient
80 coverage where the attending physician in consultation with the patient determines that a shorter period of
81 hospital stay is appropriate;

82 14. A requirement that certificates of medical necessity for durable medical equipment and any supporting
83 verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or
84 advanced practice registered nurse and in the durable medical equipment provider's possession within 60 days
85 from the time the ordered durable medical equipment and supplies are first furnished by the durable medical
86 equipment provider;

87 15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40
88 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the

89 American Cancer Society, for prostate cancer screening, which includes one prostate-specific antigen test in a
90 12-month period and digital rectal examinations;

91 16. A provision for payment of medical assistance for low-dose screening mammograms for determining
92 the presence of occult breast cancer. Such coverage shall make available one screening mammogram to
93 persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such
94 mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of
95 the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray
96 tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than
97 one rad mid-breast, two views of each breast;

98 17. A provision, when in compliance with federal law and regulation and approved by the Centers for
99 Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to
100 Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program
101 and may be provided by school divisions, regardless of whether the student receiving care has an
102 individualized education program or whether the health care service is included in a student's individualized
103 education program. Such services shall include those covered under the state plan for medical assistance
104 services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in §
105 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for
106 health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care
107 provider who provides health care services through telemedicine shall be required to use proprietary
108 technology or applications in order to be reimbursed for providing telemedicine services;

109 18. A provision for payment of medical assistance services for liver, heart and lung transplantation
110 procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or
111 surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and
112 application of the procedure in treatment of the specific condition have been clearly demonstrated to be
113 medically effective and not experimental or investigational; (iii) prior authorization by the Department of
114 Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant
115 center where the surgery is proposed to be performed have been used by the transplant team or program to
116 determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the
117 patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible
118 terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and

119 social functioning in the activities of daily living;

120 19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening

121 with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate

122 circumstances radiologic imaging, in accordance with the most recently published recommendations

123 established by the American College of Gastroenterology, in consultation with the American Cancer Society,

124 for the ages, family histories, and frequencies referenced in such recommendations;

125 20. A provision for payment of medical assistance for custom ocular prostheses;

126 21. A provision for payment for medical assistance for infant hearing screenings and all necessary

127 audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United

128 States Food and Drug Administration, and as recommended by the national Joint Committee on Infant

129 Hearing in its most current position statement addressing early hearing detection and intervention programs.

130 Such provision shall include payment for medical assistance for follow-up audiological examinations as

131 recommended by a physician, physician assistant, advanced practice registered nurse, or audiologist and

132 performed by a licensed audiologist to confirm the existence or absence of hearing loss;

133 22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention

134 and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such

135 women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and

136 Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the

137 Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a

138 precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as

139 defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance

140 services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This

141 provision shall include an expedited eligibility determination for such women;

142 23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and

143 services delivery, of medical assistance services provided to medically indigent children pursuant to this

144 chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS

145 Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both

146 programs;

147 24. A provision, when authorized by and in compliance with federal law, to establish a public-private

148 long-term care partnership program between the Commonwealth of Virginia and private insurance companies

149 that shall be established through the filing of an amendment to the state plan for medical assistance services
150 by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid
151 costs for long-term care by delaying or eliminating dependence on Medicaid for such services through
152 encouraging the purchase of private long-term care insurance policies that have been designated as qualified
153 state long-term care insurance partnerships and may be used as the first source of benefits for the participant's
154 long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and
155 estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

156 25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the
157 first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance
158 Program Reauthorization Act of 2009 (P.L. 111-3);

159 26. A provision for the payment of medical assistance for medically necessary health care services
160 provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or
161 whether the patient is accompanied by a health care provider at the time such services are provided. No health
162 care provider who provides health care services through telemedicine services shall be required to use
163 proprietary technology or applications in order to be reimbursed for providing telemedicine services.

164 For the purposes of this subdivision, a health care provider duly licensed by the Commonwealth who
165 provides health care services exclusively through telemedicine services shall not be required to maintain a
166 physical presence in the Commonwealth to be considered an eligible provider for enrollment as a Medicaid
167 provider.

168 For the purposes of this subdivision, a telemedicine services provider group with health care providers
169 duly licensed by the Commonwealth shall not be required to have an in-state service address to be eligible to
170 enroll as a Medicaid vendor or Medicaid provider group.

171 For the purposes of this subdivision, "originating site" means any location where the patient is located,
172 including any medical care facility or office of a health care provider, the home of the patient, the patient's
173 place of employment, or any public or private primary or secondary school or postsecondary institution of
174 higher education at which the person to whom telemedicine services are provided is located;

175 27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month
176 supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not
177 impose any utilization controls or other forms of medical management limiting the supply of hormonal

178 contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this
179 subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of
180 self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives
181 as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive
182 purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent
183 pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone,
184 that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration
185 for such purpose;

186 28. A provision for payment of medical assistance for remote patient monitoring services provided via
187 telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons *through 12 months postpartum*;
188 (ii) *pregnant persons 35 years of age or older at their estimated delivery date through 12 months postpartum*;
189 (iii) medically complex infants and children; (iv) transplant patients; (v) patients who have
190 undergone surgery, for up to three months following the date of such surgery; and (vi) patients with a
191 chronic or acute health condition who have had two or more hospitalizations or emergency department visits
192 related to such health condition in the previous 12 months when there is evidence that the use of remote
193 patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For
194 the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to
195 collect medical and other forms of health data from patients in one location and electronically transmit that
196 information securely to health care providers in a different location for analysis, interpretation, and
197 recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring
198 of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient
199 physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital
200 image upload;

201 29. A provision for the payment of medical assistance for provider-to-provider consultations that is no
202 more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-
203 for-service program;

204 30. A provision for payment of the originating site fee to emergency medical services agencies for
205 facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used
206 in this subdivision, "originating site" means any location where the patient is located, including any medical
207 care facility or office of a health care provider, the home of the patient, the patient's place of employment, or

208 any public or private primary or secondary school or postsecondary institution of higher education at which
209 the person to whom telemedicine services are provided is located;

210 31. A provision for the payment of medical assistance for targeted case management services for
211 individuals with severe traumatic brain injury;

212 32. A provision for payment of medical assistance for the initial purchase or replacement of complex
213 rehabilitative technology manual and power wheelchair bases and related accessories, as defined by the
214 Department's durable medical equipment program policy, for patients who reside in nursing facilities. Initial
215 purchase or replacement may be contingent upon (i) determination of medical necessity; (ii) requirements in
216 accordance with regulations established through the Department's durable medical equipment program
217 policy; and (iii) exclusive use by the nursing facility resident. Recipients of medical assistance shall not be
218 required to pay any deductible, coinsurance, copayment, or patient costs related to the initial purchase or
219 replacement of complex rehabilitative technology manual and power wheelchair bases and related
220 accessories;

221 33. A provision for payment of medical assistance for remote ultrasound procedures and remote fetal non-
222 stress tests. Such provision shall utilize established CPT codes for these procedures and shall apply when the
223 patient is in a residence or other off-site location from the patient's provider that provides the same standard
224 of care. The provision shall provide for reimbursement only when a provider uses digital technology (i) to
225 collect medical and other forms of health data from a patient and electronically transmit that information
226 securely to a health care provider in a different location for interpretation and recommendation; (ii) that is
227 compliant with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et
228 seq.); and (iii) that is approved by the U.S. Food and Drug Administration. For fetal non-stress tests under
229 CPT Code 59025, the provision shall provide for reimbursement only if such test (a) is conducted with a
230 place of service modifier for at-home monitoring and (b) uses remote monitoring solutions that are approved
231 by the U.S. Food and Drug Administration for on-label use to monitor fetal heart rate, maternal heart rate,
232 and uterine activity;

233 34. A provision for payment of medical assistance for the prophylaxis, diagnosis, and treatment of
234 pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-
235 onset neuropsychiatric syndrome. Such provision shall include payment for treatment using antimicrobials,
236 medication, and behavioral therapies to manage neuropsychiatric symptoms, immunomodulating medicines,

237 plasma exchange, and intravenous immunoglobulin therapy. For the purposes of this subdivision:

238 "Pediatric acute-onset neuropsychiatric syndrome" or "PANS" means a clinically defined disorder
239 characterized by the sudden onset of obsessive-compulsive symptoms (OCD) or eating restrictions,
240 concomitant with acute behavioral deterioration in at least two designated domains. Comorbid PANS
241 symptoms may include anxiety, sensory amplification or motor abnormalities, behavioral regression,
242 deterioration in school performance, mood disorder, urinary symptoms, or sleep disturbances. PANS does not
243 require a known trigger, although it is believed to be triggered by one or more pathogens.

244 "Pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections" or
245 "PANDAS" means a subset of PANS that has five distinct criteria for diagnosis, including (i) abrupt
246 "overnight" OCD or dramatic, disabling tics; (ii) a relapsing-remitting, episodic symptom course; (iii) young
247 age at onset; (iv) presence of neurologic abnormalities; and (v) temporal association between symptom onset
248 and Group A streptococcal infection. The five criteria of PANDAS are usually accompanied by similar
249 comorbid symptoms as found in PANS;

250 35. A provision for payment of medical assistance for rapid whole genome sequencing for children three
251 years of age or younger who are receiving inpatient hospital services in an intensive care unit. For the
252 purposes of this subdivision, "rapid whole genome sequencing" is defined as an investigation of the entire
253 human genome to identify disease-causing genetic changes that returns preliminary positive results within
254 seven days and final results within 15 days from the date of receipt of the sample by the lab performing the
255 test. "Rapid whole genome sequencing" includes patient-only whole genome sequencing and duo and trio
256 whole genome sequencing of the patient and biological parent or parents;

257 36. A provision for payment of medical assistance for comprehensive dental care services for pregnant
258 women. Such services shall include (i) preventive services, such as cleanings, oral exams, and x-rays; (ii)
259 diagnostic services, including periodontal assessments and consultations; (iii) restorative procedures,
260 including fillings, root canals, and crowns; (iv) emergency dental care to address acute pain and infection; (v)
261 periodontal treatment for gum disease, including deep cleanings; and (vi) any other dental services deemed
262 medically necessary by the Department in consultation with dentists, other dental professionals, and public
263 health experts. Such provision shall provide for at least four dental visits during pregnancy, with additional
264 visits permitted upon recommendation from a licensed dentist or obstetrician. The Department of Medical
265 Assistance Services shall report annually to the Governor and the General Assembly on the implementation

266 and outcomes of this act. The report shall include (i) the number of pregnant women who utilized expanded
267 dental services; (ii) analysis of the impact of the expanded dental services on maternal and infant health
268 outcomes; (iii) any barriers to access or service delivery; and (iv) recommendations for further improvement;
269 and

270 37. A provision for payment of medical assistance for postpartum doula care. Postpartum doula care
271 covered under such provision shall include (i) emotional and physical support for the birthing individual and
272 family during the postpartum period; (ii) assistance with infant care, breastfeeding, and safe sleeping
273 practices; (iii) education on postpartum mental health and referrals to mental health resources as needed; (iv)
274 guidance on physical recovery, nutrition, and self-care for the birthing individual; (v) connection to
275 community resources and social support systems; and (vi) culturally appropriate and individualized care
276 tailored to the birthing individual's needs. Such provision shall ensure that eligible individuals receive
277 payment of medical assistance services for up to 10 doula visits, with up to four doula visits during pregnancy
278 and up to six doula visits during the 12 months after the individual gives birth, with additional visits
279 permitted if such visits are deemed medically necessary. The Department of Medical Assistance Services
280 shall report annually to the Governor and the General Assembly on the implementation and outcomes of this
281 act. The report shall include (i) the number of postpartum individuals who utilized doula care services; (ii)
282 analysis of the impact of doula care services on maternal and infant health outcomes; (iii) feedback from
283 birthing individuals, families, and doula service providers; and (iv) recommendations for improvement or
284 expansion.

285 B. In preparing the plan, the Board shall:

286 1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and
287 that the health, safety, security, rights and welfare of patients are ensured.

288 2. Initiate such cost containment or other measures as are set forth in the appropriation act.

289 3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions
290 of this chapter.

291 4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant
292 to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For
293 regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local
294 boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the

295 projected costs/savings to the local boards of social services to implement or comply with such regulation
296 and, where applicable, sources of potential funds to implement or comply with such regulation.

297 5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in
298 accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities
299 With Deficiencies.

300 6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other
301 technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of
302 medical assistance services, and shall upon any changes in the required data elements set forth in subsection
303 A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be
304 required to electronically process a prescription claim.

305 C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for
306 medical assistance or related services, the Board, subject to the approval of the Governor, may adopt,
307 regardless of any other provision of this chapter, such amendments to the state plan for medical assistance
308 services as may be necessary to conform such plan with amendments to the United States Social Security Act
309 or other relevant federal law and their implementing regulations or constructions of these laws and
310 regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

311 In the event conforming amendments to the state plan for medical assistance services are adopted, the
312 Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of
313 Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of
314 Regulations that such amendment is necessary to meet the requirements of federal law or regulations or
315 because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are
316 necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia
317 shall only remain in effect until July 1 following adjournment of the next regular session of the General
318 Assembly unless enacted into law.

319 D. The Director of Medical Assistance Services is authorized to:

320 1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable
321 federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance
322 of the Department's duties and the execution of its powers as provided by law.

323 2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health
324 care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract

325 shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon
326 appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or
327 contract. Such provider may also apply to the Director for reconsideration of the agreement or contract
328 termination if the conviction is not appealed, or if it is not reversed upon appeal.

329 3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or
330 contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to
331 Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42
332 C.F.R. § 1002.212.

333 4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or
334 contract, with a provider who is or has been a principal in a professional or other corporation when such
335 corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316,
336 or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to
337 42 C.F.R. Part 1002.

338 5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of
339 § 32.1-162.13.

340 For the purposes of this subsection, "provider" may refer to an individual or an entity.

341 E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to
342 subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a
343 post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et
344 seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

345 The Director may consider aggravating and mitigating factors including the nature and extent of any
346 adverse impact the agreement or contract denial or termination may have on the medical care provided to
347 Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection
348 D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to
349 lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

350 F. When the services provided for by such plan are services which a marriage and family therapist,
351 clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to
352 render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly
353 licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed
354 clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for

355 covered services as provided in the state plan. The Board shall promulgate regulations which reimburse
356 licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers,
357 licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria,
358 including the professional credentials required for licensure.

359 G. The Board shall prepare and submit to the Secretary of the United States Department of Health and
360 Human Services such amendments to the state plan for medical assistance services as may be permitted by
361 federal law to establish a program of family assistance whereby children over the age of 18 years shall make
362 reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical
363 assistance under the plan to their parents.

364 H. The Department of Medical Assistance Services shall:

365 1. Include in its provider networks and all of its health maintenance organization contracts a provision for
366 the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and
367 who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for
368 medically necessary assessment and treatment services, when such services are delivered by a provider which
369 specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable
370 expertise, as determined by the Director.

371 2. Amend the Medallion II waiver and its implementing regulations to develop and implement an
372 exception, with procedural requirements, to mandatory enrollment for certain children between birth and age
373 three certified by the Department of Behavioral Health and Developmental Services as eligible for services
374 pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

375 3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors
376 and enrolled providers for the provision of health care services under Medicaid and the Family Access to
377 Medical Insurance Security Plan established under § 32.1-351.

378 I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible
379 recipients with special needs. The Board shall promulgate regulations regarding these special needs patients,
380 to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as
381 defined by the Board.

382 J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement
383 Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this

384 section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

385 K. When the services provided for by such plan are services by a pharmacist, pharmacy technician, or
386 pharmacy intern (i) performed under the terms of a collaborative agreement as defined in § 54.1-3300 and
387 consistent with the terms of a managed care contractor provider contract or the state plan or (ii) related to
388 services and treatment in accordance with § 54.1-3303.1, the Department shall provide reimbursement for
389 such service.