



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

CHERYL J. ROBERTS
DIRECTOR

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
800/343-0634 (TDD)
www.dmas.virginia.gov

DECISION BRIEF FOR:
The Honorable Janet V. Kelly
Secretary of Health and Human Resources

SUBJECT: AMENDMENT 25-025 to the PLAN for MEDICAL
ASSISTANCE entitled "Repeal Out-of-Date
Advance Directives Language"

ACTION NEEDED BY
December 29, 2025
RETURN TO DMAS

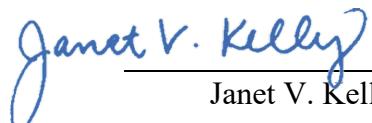
SUMMARY

1. **REQUEST:** The Department of Medical Assistance Services requests the approval of this Plan amendment TN No. 25-025 – “Repeal Out-of-Date Advance Directives Language”.
2. **RECOMMENDATION:** Recommend approval of this State Plan amendment (SPA). The funds for this amendment are already provided in the agency’s appropriations. The Agency intends to forward this SPA to the Centers for Medicare and Medicaid Services Regional Office no later than December 31, 2025.


Cheryl J. Roberts, Director 11/26/2025
Date

3. **SECRETARY’S ACTION:** Secretary of Health and Human Resources

Approve Approve w/ Modifications _____ Deny _____


Janet V. Kelly, Date 12/23/25

Transmittal Summary

SPA 25-025

I. IDENTIFICATION INFORMATION

Title of Amendment: Repeal Out-of-Date Advance Directives Language

II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Purpose: This SPA will delete all of the text in Attachment 2.8-A of the state plan, which pertains to requirements for advance directives. This text is and out-of-date and was replaced by the text in Attachment 4.34-A (all of the language that appears in Attachment 2.8-A is reflected in Attachment 4.34-A). Therefore, the text in Attachment 2.8-A is no longer needed, and the state plan needs to be amended to remove it.

Substance and Analysis: The section of the State Plan that is affected by this amendment is “Requirements For Advance Directives”.

Impact: None.

Tribal Notice: Please see attached.

Prior Public Notice: N/A

Public Comments and Agency Analysis: N/A



Tribal Notification

From Williams, Jimeequa (DMAS) <Jimeequa.Williams@dmas.virginia.gov>

Date Sat 11/29/2025 5:27 PM

To TribalOffice@MonacanNation.com <tribaloffice@monacannation.com>; Ann Richardson <chiefannerich@aol.com>; Pam Thompson <pamelathompson4@yahoo.com>; Rappahannock Tribe <rappahannocktrib@aol.com>; Reginald Stewart <regstew007@gmail.com>; richard.matens@pamunkey.org <richard.matens@pamunkey.org>; Chief <chief@monacannation.gov>; Stephen Adkins <chiefstephenadkins@gmail.com>; bradbybrown@gmail.com <bradbybrown@gmail.com>; tabitha.garrett@ihs.gov <tabitha.garrett@ihs.gov>; kara.kearns@ihs.gov <kara.kearns@ihs.gov>; Nansemond Administrator <administrator@nansemond.gov>; info@afwellness.com <info@afwellness.com>; info@fishingpointhc.com <info@fishingpointhc.com>; Nansemond Indian Nation <contact@nansemond.gov>; brandon.custalow@mattaponination.com <brandon.custalow@mattaponination.com>; admin@umitribe.org <admin@umitribe.org>; Reels-Pearson, Lorraine (IHS/NAS/AO) <lorraine.reels-peerson@ihs.gov>; Holmes, Remedios (IHS/NAS/RIC) <remedios.holmes@ihs.gov>; Lindsey.Taylor@ihs.gov <lindsey.taylor@ihs.gov>

1 attachment (309 KB)

Tribal Notice letter (11.26.25) - signed.pdf;

Good afternoon.

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid's Director, Cheryl J. Roberts, indicating that the Dept. of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services regarding the Repeal of Out-of-Date Advance Directives Language.

If you would like a copy of the SPA documents or proposed text changes, or if you have any questions, please let us know.

Thank you.

-J. Williams

Jimeequa Williams
Regulatory Coordinator
Policy Division
Department of Medical Assistance Services
Hours: 7:30 a.m. - 5:00 p.m. (Monday-Thursday); 7:30 a.m. - 11:30 a.m. (Friday)
jimeequa.williams@dmas.virginia.gov
(804) 225-3508
www.dmas.virginia.gov





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Department of Medical Assistance Services

CHERYL J. ROBERTS
DIRECTOR

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RICHMOND, VA 23219
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800/343-0634 (TDD)
www.dmas.virginia.gov

November 26, 2025

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment related to the Repeal Out-of-Date Advance Directives Language.

Dear Tribal Leader and Indian Health Programs:

This letter is to notify you that the Department of Medical Assistance Services (DMAS) is planning to amend the Virginia State Plan for Medical Assistance with the Centers for Medicare and Medicaid Services (CMS). Specifically, DMAS is providing you notice about a State Plan Amendment (SPA) that the Agency will file with CMS to remove out-of-date advance directives language. Specifically, DMAS will delete all of the text in Attachment 2.8-A of the state plan, which pertains to requirements for advance directives. This text is out-of-date and was replaced by the text in Attachment 4.34-A (all of the language that appears in Attachment 2.8-A is reflected in Attachment 4.34-A). Therefore, the text in Attachment 2.8-A is no longer needed, and the state plan needs to be amended to remove it.

We realize that the changes in this SPA may impact Medicaid members and providers, including tribal members and providers. Therefore, we encourage you to let us know if you have any comments or questions. The tribal comment period for this SPA is open through December 29, 2025. You may submit your comments directly to Jimeequa Williams, DMAS Policy Division, by phone (804) 225-3508, or via email: Jimeequa.Williams@dmas.virginia.gov. Finally, if you prefer regular mail you may send your comments or questions to:

Virginia Department of Medical Assistance Services
Attn: Jimeequa Williams
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl J. Roberts".

Cheryl J. Roberts
Director

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

REQUIREMENTS FOR ADVANCE DIRECTIVES

§1.0 All specified providers, receiving funds under this Plan, shall maintain written policies, procedures, and materials concerning advance directives to ensure compliance with the law. All providers must:

A. give written information to all adults (as defined by the Code of Virginia §54.1-2981 et seq.) receiving medical care concerning their rights under state law to:

1. make decisions concerning their medical care;
2. accept or refuse medical or surgical treatment, and
3. formulate advance directives, e.g., living wills or durable powers of attorney for health care.

B. provide written information to all adults on their policies concerning implementation of these rights;

C. document in the individual's medical record whether he has executed an advance directive;

D. not condition providing care or otherwise discriminate against an individual based on whether he has executed an advance directive;

E. ensure compliance with the requirements of state law concerning advance directives; and

F. provide for educating staff and the community on advance directives.

TN No. 91-32 25-025Approval Date 01-30-92Effective Date 12-18-94 10-01-25

Supersedes

TN No. N/A 91-32

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

REQUIREMENTS FOR ADVANCE DIRECTIVES

~~§2.0 Providers shall give to each adult patient information concerning advance directives according to the following:~~

- ~~A. Hospitals shall provide such information at the time of the individual's admission as an inpatient.~~
- ~~B. Nursing facilities shall provide such information at the time of the individual's admission as a resident.~~
- ~~C. Providers of home health care or personal care services shall provide such information in advance of the individual's coming under the care of the provider.~~
- ~~D. Hospice programs shall provide such information at the time of the initial receipt of hospice care by the individual.~~
- ~~E. A health maintenance or health insuring organization shall provide such information at the time the individual enrolls or reenrolls with the organization. If such organization maintains more than one record for its enrollees, it must document all medical records.~~

~~§3.0 Advance directives for incapacitated individuals. To the extent that a facility or provider issues materials about policies and procedures to the families or surrogates or other concerned persons of the incapacitated patient in accordance with state law, the facility or provider shall also provide information concerning advance directives. Such provision of information to families or surrogates shall not relieve the facility or provider of the requirement to provide this information to the patient once he is no longer incapacitated.~~

TN No. 91-32 25-025Approval Date 01-30-92Effective Date 12-18-94 10-01-25

Supersedes

TN No. N/A 91-32

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

REQUIREMENTS FOR ADVANCE DIRECTIVES

§4.0 ~~Previously executed advance directives. When the patient or a relative, surrogate or other concerned or related individual presents the facility or provider with a copy of the individual's advance directive, the facility or provider must comply with the advance directive including recognition of the power of attorney, to the extent allowed under state law. Absent contrary state law, if no one comes forward with a previously executed advance directive and the patient is incapacitated or otherwise unable to receive information or articulate whether he has executed an advance directive, the facility or provider must note in the individual's medical record that the individual was not able to receive such information and was unable to communicate whether an advance directive existed.~~

§5.0 ~~Conscientious objection by providers. Nothing in this section shall be construed to prohibit the application of a state law which allows for an objection on the basis of conscience for any health care provider or any agent of such provider which as a matter of conscience cannot implement an advance directive.~~

TN No. 91-32 25-025Approval Date 01-30-92Effective Date 12-18-94 10-01-25

Supersedes

TN No. N/A 91-32

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. TRANSMITTAL NUMBER
2 5 — 0 0 2 5 2. STATE
V A

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT
 XIX XXI

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 489.102

4. PROPOSED EFFECTIVE DATE
10/1/2025
6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2026 \$ 0
b. FFY 2027 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 2.8-A, revised pages 1 through 3

Same as box #7.

9. SUBJECT OF AMENDMENT

Repeal Out-of-Date Advance Directives Language

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:
Secretary of Health and Human Resources

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME
Cheryl Roberts

13. TITLE
Agency Director

14. DATE SUBMITTED
11/26/2025

15. RETURN TO

Department of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Regulatory Coordinator

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

REQUIREMENTS FOR ADVANCE DIRECTIVES

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TN No. 25-025

Approval Date _____

Effective Date 10-01-25

Supersedes

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