	034130856
1	HOUSE BILL NO. 1822
2 3	Offered January 8, 2003
3	Prefiled January 7, 2003
4	A BILL to amend and reenact § 32.1-325, as it is currently effective and as it may become effective, of
5	the Code of Virginia, relating to the expedient development of a Medicaid-Buy-In Program for
6	Virginia.
7	
0	Patron—Morgan
8 9	Defense 1 (c. Committee on Health Welfers and Lestitetions
	Referred to Committee on Health, Welfare and Institutions
10 11	Do it expected by the Conousl Assembly of Vinginia.
11	Be it enacted by the General Assembly of Virginia: 1. That § 32.1-325, as it is currently effective and as it may become effective, of the Code of
13	Virginia is amended and reenacted as follows:
14	§ 32.1-325. (For effective date /- See note) Board to submit plan for medical assistance services to
15	Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with
16	health care providers.
17	A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to
18	time and submit to the Secretary of the United States Department of Health and Human Services a state
19	plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and
20	any amendments thereto. The Board shall include in such plan:
21	1. A provision for payment of medical assistance on behalf of individuals, up to the age of
22	twenty-one, placed in foster homes or private institutions by private, nonprofit agencies licensed as
23	child-placing agencies by the Department of Social Services or placed through state and local subsidized
24	adoptions to the extent permitted under federal statute;
25 26	2. A provision for determining eligibility for benefits for medically needy individuals which discovered from countrable recourses on smouth not in excess of $\$2500$ for the individual and an amount
26 27	disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial
28	expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value
2 9	of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender
30	value of such policies has been excluded from countable resources and (ii) the amount of any other
31	revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of
32	meeting the individual's or his spouse's burial expenses;
33	3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically
34	needy persons whose eligibility for medical assistance is required by federal law to be dependent on the
35	budget methodology for Aid to Families with Dependent Children, a home means the house and lot used
36	as the principal residence and all contiguous property. For all other persons, a home shall mean the
37	house and lot used as the principal residence, as well as all contiguous property, as long as the value of
38 39	the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical
40	definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and
40	lot used as the principal residence and all contiguous property essential to the operation of the home
42	regardless of value;
43	4. A provision for payment of medical assistance on behalf of individuals up to the age of
44	twenty-one, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of
45	twenty-one days per admission;
46	5. A provision for deducting from an institutionalized recipient's income an amount for the
47	maintenance of the individual's spouse at home;
48	6. A provision for payment of medical assistance on behalf of pregnant women which provides for
49	payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most
50	current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American
51 52	Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards
52 53	for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the
55 54	children which are within the time periods recommended by the attending physicians in accordance with
55	and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines
56	or Standards shall include any changes thereto within six months of the publication of such Guidelines
57	or Standards or any official amendment thereto;
58	7. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow

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59 transplants on behalf of individuals over the age of twenty-one who have been diagnosed with 60 lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone 61 62 marrow transplant. Appeals of these cases shall be handled in accordance with the Department's 63 expedited appeals process;

64 8. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance; 65

66 9. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been 67 obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic; 68 69

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

11. A provision for payment of medical assistance services for prostheses following the medically 70 71 necessary complete or partial removal of a breast for any medical reason;

72 12. A provision for payment of medical assistance which provides for payment for forty-eight hours 73 of inpatient treatment for a patient following a radical or modified radical mastectomy and twenty-four 74 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection 75 for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the 76 77 patient determines that a shorter period of hospital stay is appropriate;

78 13. A requirement that certificates of medical necessity for durable medical equipment and any 79 supporting verifiable documentation shall be signed, dated, and returned by the physician and in the durable medical equipment provider's possession within sixty days from the time the ordered durable 80 medical equipment and supplies are first furnished by the durable medical equipment provider; 81

14. A provision for payment of medical assistance to (i) persons age fifty and over and (ii) persons 82 83 age forty and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a twelve-month period and digital rectal 84 85 examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate 86 87 specific antigen;

88 15. A provision for payment of medical assistance for low-dose screening mammograms for 89 determining the presence of occult breast cancer. Such coverage shall make available one screening 90 mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons 91 age forty through forty-nine, and one such mammogram annually to persons age fifty and over. The 92 term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film 93 94 and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each 95 breast:

96 16. A provision, when in compliance with federal law and regulation and approved by the Health 97 Care Financing Administration, for payment of medical assistance services delivered to Medicaid-eligible 98 students when such services qualify for reimbursement by the Virginia Medicaid program and may be 99 provided by school divisions;

17. A provision for payment of medical assistance services for liver, heart and lung transplantation 100 101 procedures for individuals over the age of twenty-one years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable to the transplant 102 procedure; (ii) the transplant procedure and application of the procedure in treatment of the specific 103 condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been 104 105 obtained; (iv) the patient-selection criteria of the specific transplant center where the surgery is proposed 106 107 to be performed have been used by the transplant team or program to determine the appropriateness of 108 the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond 109 to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning 110 111 in the activities of daily living;

18. A provision for payment of medical assistance for colorectal cancer screening, specifically 112 113 screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published 114 recommendations established by the American College of Gastroenterology, in consultation with the 115 American Cancer Society, for the ages, family histories, and frequencies referenced in such 116 117 recommendations; 118

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

119 20. A provision for payment for medical assistance for infant hearing screenings and all necessary 120 audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the 121 United States Food and Drug Administration, and as recommended by the national Joint Committee on
122 Infant Hearing in its most current position statement addressing early hearing detection and intervention
123 programs. Such provision shall include payment for medical assistance for follow-up audiological
124 examinations as recommended by a physician or audiologist and performed by a licensed audiologist to
125 confirm the existence or absence of hearing loss; and

126 21. (For effective date - See note) A provision for payment of medical assistance, pursuant to the 127 Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. §§ 106-354), for certain women 128 with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer 129 under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection 130 Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or 131 cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not 132 otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; 133 (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy 134 eligibility group; and (v) have not attained age sixty-five. This provision shall include an expedited 135 eligibility determination for such women; and

136 22. A provision to implement one of the options for a Medicaid Buy-In program pursuant to Section 4733 of the Balanced Budget Act of 1997 or the Ticket to Work and Work Incentives Improvement Act 137 138 of 1999, as soon as practicable and cost effective. Such option shall be designed to provide working 139 persons with disabilities, who, because of their higher earnings, were not eligible for medical assistance 140 services in Virginia, with access to coverage under the Virginia medical assistance services program. 141 The provision for a Medicaid Buy-In shall provide such working persons with disabilities access to this 142 comprehensive health care when they meet the Board's established income and resource eligibility 143 criteria and upon payment of a premium to participate in the Virginia Medicaid program. The Board's 144 Medicaid Buy-In provision may consist of a time-limited demonstration project or such other option as the Board shall determine to be appropriate for the purposes of removing barriers to work and 145 146 providing comprehensive health coverage for disabled persons while assuring the fiscal integrity of the Commonwealth's medical assistance services program. The Board's Medicaid Buy-In provision shall 147 148 establish income eligibility, asset and resource limitations, premium payments, age eligibility, criteria for 149 determining the level of disability required for participation, and, if feasible, criteria for providing 150 continued participation upon medical improvement. The Board may develop a Medicaid Buy-In option, 151 pursuant to this subdivision, during the implementation of Virginia's federal Medicaid Infrastructure 152 Grant as awarded on January 1, 2002, for the development of infrastructure, in the form of 153 improvements in the Commonwealth's Medicaid program, to support employment of disabled persons or 154 at such other time as, in the Board's opinion, may be more appropriate.

B. In preparing the plan, the Board shall:

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156 1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided 157 and that the health, safety, security, rights and welfare of patients are ensured.

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

159 3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the 160 provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007, the potential fiscal impact of such regulation on local boards of social services.
For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation.

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

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

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

182 and Human Services.

183 In the event conforming amendments to the state plan for medical assistance services are adopted, the 184 Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 185 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or 186 187 regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the 188 regulations are necessitated by an emergency situation. Any such amendments which are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular 189 190 session of the General Assembly unless enacted into law. 191

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

192 1. Administer such state plan and to receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and to enter into all contracts necessary or incidental 193 194 to the performance of the Department's duties and the execution of its powers as provided by law.

195 2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other 196 health care providers where necessary to carry out the provisions of such state plan. Any such agreement 197 or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is 198 reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new 199 agreement or contract. Such provider may also apply to the Director for reconsideration of the 200 agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

201 3. Refuse to enter into or renew an agreement or contract with any provider which has been 202 convicted of a felony.

203 4. Refuse to enter into or renew an agreement or contract with a provider who is or has been a 204 principal in a professional or other corporation when such corporation has been convicted of a felony.

205 E. In any case in which a Medicaid agreement or contract is denied to a provider on the basis of his 206 interest in a convicted professional or other corporation, the Director shall, upon request, conduct a 207 hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) regarding the provider's 208 participation in the conduct resulting in the conviction.

209 The Director's decision upon reconsideration shall be consistent with federal and state laws. The 210 Director may consider the nature and extent of any adverse impact the agreement or contract denial or 211 termination may have on the medical care provided to Virginia Medicaid recipients.

212 F. When the services provided for by such plan are services which a clinical psychologist or a 213 clinical social worker or licensed professional counselor or clinical nurse specialist is licensed to render 214 in Virginia, the Director shall contract with any duly licensed clinical psychologist or licensed clinical 215 social worker or licensed professional counselor or licensed clinical nurse specialist who makes 216 application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed clinical psychologists, 217 218 licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at 219 rates based upon reasonable criteria, including the professional credentials required for licensure.

220 G. The Board shall prepare and submit to the Secretary of the United States Department of Health 221 and Human Services such amendments to the state plan for medical assistance services as may be 222 permitted by federal law to establish a program of family assistance whereby children over the age of 223 eighteen years shall make reasonable contributions, as determined by regulations of the Board, toward 224 the cost of providing medical assistance under the plan to their parents. 225

H. The Department of Medical Assistance Services shall:

226 1. Include in its provider networks and all of its health maintenance organization contracts a 227 provision for the payment of medical assistance on behalf of individuals up to the age of twenty-one 228 who have special needs and who are Medicaid eligible, including individuals who have been victims of 229 child abuse and neglect, for medically necessary assessment and treatment services, when such services 230 are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and 231 neglect, or a provider with comparable expertise, as determined by the Director.

232 2. Amend the Medallion II waiver and its implementing regulations to develop and implement an 233 exception, with procedural requirements, to mandatory enrollment for certain children between birth and 234 age three certified by the Department of Mental Health, Mental Retardation and Substance Abuse 235 Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 236 U.S.C. § 1471 et seq.).

237 I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible 238 recipients with special needs. The Board shall promulgate regulations regarding these special needs 239 patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special 240 needs as defined by the Board.

J. Except as provided in subsection A 1 of § 2.2-4345, the provisions of the Virginia Public 241 242 Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by 243 subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law 244 and regulation.

§ 32.1-325. (Delayed effective date /- See notes) Board to submit plan for medical assistance services
to Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts
with health care providers

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

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

256 2. A provision for determining eligibility for benefits for medically needy individuals which 257 disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount 258 not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial 259 expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value 260 of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other 261 revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of 262 263 meeting the individual's or his spouse's burial expenses;

264 3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the 265 266 budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the 267 268 house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the 269 270 definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and 271 272 lot used as the principal residence and all contiguous property essential to the operation of the home 273 regardless of value;

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

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

279 6. A provision for payment of medical assistance on behalf of pregnant women which provides for 280 payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American 281 282 Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards 283 for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the 284 285 children which are within the time periods recommended by the attending physicians in accordance with 286 and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines 287 or Standards shall include any changes thereto within six months of the publication of such Guidelines 288 or Standards or any official amendment thereto;

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

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of twenty-one who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

301 9. A provision identifying entities approved by the Board to receive applications and to determine302 eligibility for medical assistance;

303 10. A provision for breast reconstructive surgery following the medically necessary removal of a304 breast for any medical reason. Breast reductions shall be covered, if prior authorization has been

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305 obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

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

307 12. A provision for payment of medical assistance services for prostheses following the medically308 necessary complete or partial removal of a breast for any medical reason;

309 13. A provision for payment of medical assistance which provides for payment for forty-eight hours
310 of inpatient treatment for a patient following a radical or modified radical mastectomy and twenty-four
311 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection
312 for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as
313 requiring the provision of inpatient coverage where the attending physician in consultation with the
314 patient determines that a shorter period of hospital stay is appropriate;

315 14. A requirement that certificates of medical necessity for durable medical equipment and any
316 supporting verifiable documentation shall be signed, dated, and returned by the physician and in the
317 durable medical equipment provider's possession within sixty days from the time the ordered durable
318 medical equipment and supplies are first furnished by the durable medical equipment provider;

319 15. A provision for payment of medical assistance to (i) persons age fifty and over and (ii) persons 320 age forty and over who are at high risk for prostate cancer, according to the most recent published 321 guidelines of the American Cancer Society, for one PSA test in a twelve-month period and digital rectal 322 examinations, all in accordance with American Cancer Society guidelines. For the purpose of this 323 subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate 324 specific antigen;

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

17. A provision, when in compliance with federal law and regulation and approved by the Health
Care Financing Administration, for payment of medical assistance services delivered to Medicaid-eligible
students when such services qualify for reimbursement by the Virginia Medicaid program and may be
provided by school divisions;

337 18. A provision for payment of medical assistance services for liver, heart and lung transplantation 338 procedures for individuals over the age of twenty-one years when (i) there is no effective alternative 339 medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant 340 procedure and application of the procedure in treatment of the specific condition have been clearly 341 demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization 342 by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of 343 the specific transplant center where the surgery is proposed to be performed have been used by the 344 transplant team or program to determine the appropriateness of the patient for the procedure; (v) current 345 medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the 346 347 patient's life and restore a range of physical and social functioning in the activities of daily living;

348 19. A provision for payment of medical assistance for colorectal cancer screening, specifically 349 screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in 350 appropriate circumstances radiologic imaging, in accordance with the most recently published 351 recommendations established by the American College of Gastroenterology, in consultation with the 352 American Cancer Society, for the ages, family histories, and frequencies referenced in such 353 recommendations;

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

355 21. A provision for payment for medical assistance for infant hearing screenings and all necessary 356 audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the 357 United States Food and Drug Administration, and as recommended by the national Joint Committee on 358 Infant Hearing in its most current position statement addressing early hearing detection and intervention 359 programs. Such provision shall include payment for medical assistance for follow-up audiological 360 examinations as recommended by a physician or audiologist and performed by a licensed audiologist to 361 confirm the existence or absence of hearing loss; and

362 22. (For effective date - See note) A provision for payment of medical assistance, pursuant to the
363 Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. §§ 106-354), for certain women
364 with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer
365 under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection
366 Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or

367 cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not 368 otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; 369 (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy 370 eligibility group; and (v) have not attained age sixty-five. This provision shall include an expedited 371 eligibility determination for such women; and

372 23. A provision to implement one of the options for a Medicaid Buy-In program pursuant to Section 373 4733 of the Balanced Budget Act of 1997 or the Ticket to Work and Work Incentives Improvement Act 374 of 1999, as soon as practicable and cost effective. Such option shall be designed to provide working 375 persons with disabilities, who, because of their higher earnings, were not eligible for medical assistance 376 services in Virginia, with access to coverage under the Virginia medical assistance services program. 377 The provision for a Medicaid Buy-In shall provide such working persons with disabilities access to this 378 comprehensive health care when they meet the Board's established income and resource eligibility 379 criteria and upon payment of a premium to participate in the Virginia Medicaid program. The Board's 380 Medicaid Buy-In provision may consist of a time-limited demonstration project or such other option as 381 the Board shall determine to be appropriate for the purposes of removing barriers to work and 382 providing comprehensive health coverage for disabled persons while assuring the fiscal integrity of the 383 Commonwealth's medical assistance services program. The Board's Medicaid Buy-In provision shall 384 establish income eligibility, asset and resource limitations, premium payments, age eligibility, criteria for 385 determining the level of disability required for participation, and, if feasible, criteria for providing 386 continued participation upon medical improvement. The Board may develop a Medicaid Buy-In option, 387 pursuant to this subdivision, during the implementation of Virginia's federal Medicaid Infrastructure 388 Grant as awarded on January I, 2002, for the development of infrastructure, in the form of 389 improvements in the Commonwealth's Medicaid program, to support employment of disabled persons or 390 at such other time as, in the Board's opinion, may be more appropriate.

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

392 1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided 393 and that the health, safety, security, rights and welfare of patients are ensured. 394

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

395 3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the 396 provisions of this chapter.

397 4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations 398 pursuant to § 2.2-4007, the potential fiscal impact of such regulation on local boards of social services. 399 For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis 400 with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall 401 include the projected costs/savings to the local boards of social services to implement or comply with 402 such regulation and, where applicable, sources of potential funds to implement or comply with such 403 regulation.

404 5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in 405 accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities 406 With Deficiencies.'

407 6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or 408 other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each 409 recipient of medical assistance services, and shall upon any changes in the required data elements set 410 forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective 411 information as may be required to electronically process a prescription claim.

412 C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for 413 medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical 414 415 assistance services as may be necessary to conform such plan with amendments to the United States 416 Social Security Act or other relevant federal law and their implementing regulations or constructions of 417 these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health 418 and Human Services.

419 In the event conforming amendments to the state plan for medical assistance services are adopted, the 420 Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 421 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the 422 Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or 423 regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments which are in conflict with 424 425 the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular 426 session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to: 427

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428 1. Administer such state plan and receive and expend federal funds therefor in accordance with 429 applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to 430 the performance of the Department's duties and the execution of its powers as provided by law.

431 2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other 432 health care providers where necessary to carry out the provisions of such state plan. Any such agreement 433 or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is 434 reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the 435 436 agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

437 3. Refuse to enter into or renew an agreement or contract with any provider which has been 438 convicted of a felony.

439 4. Refuse to enter into or renew an agreement or contract with a provider who is or has been a 440 principal in a professional or other corporation when such corporation has been convicted of a felony.

441 E. In any case in which a Medicaid agreement or contract is denied to a provider on the basis of his 442 interest in a convicted professional or other corporation, the Director shall, upon request, conduct a 443 hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) regarding the provider's 444 participation in the conduct resulting in the conviction.

The Director's decision upon reconsideration shall be consistent with federal and state laws. The 445 446 Director may consider the nature and extent of any adverse impact the agreement or contract denial or 447 termination may have on the medical care provided to Virginia Medicaid recipients.

448 F. When the services provided for by such plan are services which a clinical psychologist or a 449 clinical social worker or licensed professional counselor or clinical nurse specialist is licensed to render 450 in Virginia, the Director shall contract with any duly licensed clinical psychologist or licensed clinical social worker or licensed professional counselor or licensed clinical nurse specialist who makes 451 452 application to be a provider of such services, and thereafter shall pay for covered services as provided in 453 the state plan. The Board shall promulgate regulations which reimburse licensed clinical psychologists, 454 licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at 455 rates based upon reasonable criteria, including the professional credentials required for licensure.

456 G. The Board shall prepare and submit to the Secretary of the United States Department of Health 457 and Human Services such amendments to the state plan for medical assistance services as may be 458 permitted by federal law to establish a program of family assistance whereby children over the age of 459 eighteen years shall make reasonable contributions, as determined by regulations of the Board, toward 460 the cost of providing medical assistance under the plan to their parents. 461

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a 462 provision for the payment of medical assistance on behalf of individuals up to the age of twenty-one 463 464 who have special needs and who are Medicaid eligible, including individuals who have been victims of 465 child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and 466 neglect, or a provider with comparable expertise, as determined by the Director. 467

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an 468 469 exception, with procedural requirements, to mandatory enrollment for certain children between birth and 470 age three certified by the Department of Mental Health, Mental Retardation and Substance Abuse 471 Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 472 U.S.C. § 1471 et seq.).

473 I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible 474 recipients with special needs. The Board shall promulgate regulations regarding these special needs 475 patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special 476 needs as defined by the Board.

477 J. Except as provided in subsection A 1 of § 2.2-4345, the provisions of the Virginia Public 478 Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by 479 subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law 480 and regulation.