

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget **Economic Impact Analysis**

12 VAC 30-90 Methods and Standards for Establishing Payment Rates for Long-Term Care

Department of Medical Assistance Services

Town Hall Action/Stage: 4913/8064

December 13, 2017

Summary of the Proposed Amendments to Regulation

The proposed regulation clarifies Medicaid reimbursement to disaster-struck nursing facilities.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

In November, 2016 the Centers for Medicare and Medicaid Services announced a final rule entitled "Emergency Preparedness" (42 CFR 483.73), which requires long term care facilities to establish and maintain an emergency preparedness program. The Virginia Department of Health, the Virginia Department of Emergency Management, the Virginia Hospital and Healthcare Association, and the nursing facility provider community worked to establish a Long Term Care Mutual Aid Plan, which includes a Memorandum of Understanding for all facilities to sign. As a part of the overall plan, this regulatory action clarifies Medicaid reimbursement to disaster-struck nursing facilities.

The proposed regulation allows a disaster struck facility to temporarily transfer its residents to an accepting facility up to 30 days without having to discharge its residents. Sending

and receiving facilities must have a contract or must have signed the Memorandum of Understanding contained in the Long Term Care Mutual Aid Plan. The disaster struck facility must determine within 15 days whether individuals will be able to return to the facility within 30 days. The standard reimbursement for the residents transferred to another facility will continue to be made to the disaster struck facility. The disaster struck facility will pass on the payments to the receiving facility according to the contract between them. No other reimbursement will be made to either the sending or the receiving facility. If the sending facility determines that it is unable to reopen within 30 days, it must discharge its residents at which point it will no longer receive reimbursement. Thus, no fiscal impact is expected from this change.

The proposed change is beneficial because it would help avoid some potential administrative costs. Under the proposed regulations, the disaster struck facility will not be required to discharge its residents if it can be reopened within 30 days. According to the Department of Medical Assistance Services (DMAS), the discharge and intake procedures at nursing facilities are administratively cumbersome and may take up to 15 days. In addition, by avoiding discharge and intake procedures, the regulators, the facilities, the residents, and the family members will know which residents are moving to which facilities fairly quickly.

Businesses and Entities Affected

The proposed amendments potentially affect the 275 nursing homes providing services to Medicaid recipients.¹

Localities Particularly Affected

The proposed changes do not disproportionately affect particular localities.

Projected Impact on Employment

No impact on employment is expected.

Effects on the Use and Value of Private Property

No impact on the use and value of private property is expected.

Real Estate Development Costs

No impact on real estate development costs is expected.

¹ Source: DMAS

Small Businesses:**Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

Approximately 50 of the nursing homes are small businesses.² The proposed regulation does not impose costs on them, but will likely help avoid potential administrative costs in case of an emergency.

Alternative Method that Minimizes Adverse Impact

No adverse impact on small businesses is expected.

Adverse Impacts:**Businesses:**

The proposed amendments do not have an adverse impact on non-small businesses.

Localities:

The proposed amendments will not adversely affect localities.

Other Entities:

The proposed amendments will not adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and

² Source: DMAS

Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.