

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 30-50; 60; 80; 120 Amount, Duration and Scope of Medical and Remedial Care and Services; Standards Established and Methods Used to Assure High Quality of Care; Methods and Standards for Establishing Payment Rates-Other Types of Care; Waivered Services

Department of Medical Assistance Services

Town Hall Action/Stage: 3836/7644

May 4, 2017

Summary of the Proposed Amendments to Regulation

The proposed regulation establishes in the Virginia Administrative Code uniform and specific standards for diagnosis and provision of behavioral therapy services under Medicaid for young people from birth through the age of 21.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The proposed regulation establishes in the Virginia Administrative Code Medicaid coverage for behavioral therapy services for young people from birth through the age of 21 under the authority of the Early and Periodic Screening, Diagnosis and Treatment program. To be covered for this service, children and adolescents must have autism or autism spectrum disorders, or other similar developmental delays as demonstrated by their lack of communication skills or lack of interaction with their environments.

Prior to 2012 these services were already covered by Medicaid, but there were no uniform standards. The coverage decisions were made on a case-by-case basis. In 2012, the

Department of Medical Assistance Services (DMAS) adopted a service manual setting out uniform rules for coverage and provision of behavioral therapy services (e.g. rules for provider enrollment, eligibility criteria, limitations, service authorization requirements, etc.). In December 2013, DMAS contracted Magellan Health to administer the provision of behavioral therapy services. Selection of a behavioral services administrator to run the program marked the beginning of a significant increase in provision of these services. In fiscal year 2013, 524 individuals received these services at a cost of approximately \$12.2 million. In calendar year 2014, \$28.2 million was spent on services provided to 1,831 individuals. In calendar year 2015, the expenditures and recipients increased to \$41.6 million and 2,313, respectively. In calendar year 2016, expenditures stood at \$60.6 million and the number of recipients was 2,996.

While the provision of behavioral therapy services has grown significantly in the recent past, the impact of the proposed regulation on utilization is expected to be neutral. These services have been provided according to the uniform standards set out in the service manual since 2012. Consistent with the service manual, this action specifies in the regulation the behavioral service requirements, medical necessity criteria, provider clinical assessment and intake procedures, service planning and progress measurement requirements, care coordination, clinical supervision, and other standards.

The main effect of the proposed changes is establishing clear criteria for Medicaid payment of these services in the Virginia Administrative Code and consequently providing legal basis for the programs administration. Having clear criteria in regulations is also expected to help protect the health, safety, and welfare of the affected children by improving the uniformity of service quality across providers.

Businesses and Entities Affected

As of August 2016, 348 behavioral therapy providers were credentialed with Magellan (only 89 of which actively provided services in 2016) and there were 488 licensed behavioral analysts and 103 licensed assistant behavioral analysts in the Commonwealth. In 2016, 2,996 individuals received these services.

Localities Particularly Affected

The proposed regulation does not disproportionately affect particular localities.

Projected Impact on Employment

No significant impact on employment is expected.

Effects on the Use and Value of Private Property

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

Real Estate Development Costs

No impact on real estate development costs is expected.

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

The Department of Medical Assistance Services estimates that 90% of the current providers are small businesses. The proposed amendments are not anticipated to create significant costs or other effects on small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments are not anticipated to have an adverse impact on small businesses.

Adverse Impacts:**Businesses:**

DMAS estimates that 10% of the current providers are non-small businesses. The proposed amendments are not anticipated to create significant costs or other effects 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 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.

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