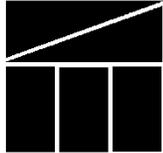


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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 30-135 – Demonstration Waivers: Individuals with Serious Mental Illness (SMI)
Department of Medical Assistance Services
Town Hall Action/Stage: 4642/7674
November 2, 2016

Summary of the Proposed Amendments to Regulation

On behalf of the Board of Medical Assistance Services (Board), the Director of the Department of Medical Assistance Services (DMAS) proposes to promulgate a replacement for an emergency regulation that will expire December 29, 2016. This regulation, and the emergency regulation it replaces, sets rules for the Governor's Access Plan (GAP) Demonstration Waiver for Individuals with Serious Mental Illness (SMI) which provides specified medical benefits to uninsured individuals who meet specified mental health, financial and non-financial criteria.

Result of Analysis

There is insufficient information to ascertain whether benefits will outweigh costs for this proposed regulation.

Estimated Economic Impact

The emergency regulation that implemented the GAP SMI program became effective January 1, 2015. The Director of DMAS now proposes this regulation which will replace the emergency regulation that is set to expire on December 29, 2016. This proposed regulation, and the emergency regulation that it replaces, sets requirements for seriously mentally ill individuals to receive a number of defined services that include insurance coverage for: 1) primary care office visits, 2) outpatient specialty care, 3)

outpatient hospital coverage (including observation and ambulatory diagnostic procedures), 4) outpatient laboratory tests, 5) outpatient pharmacy, 6) outpatient and behavioral telemedicine, 7) medical equipment and supplies for diabetes treatment, 8) outpatient psychiatric treatment, 9) GAP case management, 10) psychosocial rehabilitation assessment and treatment, 11) mental health crisis intervention and stabilization, 12) therapeutic or diagnostic injections, 13) outpatient substance abuse treatment and 14) intensive outpatient substance abuse treatment¹.

In order to receive these services, individuals must have household income that does not exceed 80% of the federal poverty level.² These individuals must also have been diagnosed with one of the following serious mental illnesses: 1) a schizophrenia spectrum disorder or other psychotic disorder (with the exception of substance/medication induced psychotic disorder), 2) major depressive disorder, 3) bipolar and related disorders (with the exception of cyclothymic disorder)³ or 4) post-traumatic stress disorder. They also must either 1) be expected to require services for an extended duration, 2) have undergone psychiatric treatment more intensive than outpatient care more than once in their lifetime or 3) have experienced an episode of continuous supportive residential care other than hospitalization for a long enough period that their normal living situation was significantly disrupted.

In order to be eligible for the GAP SMI program, individuals must also be 1) between the ages of 21 and 64, 2) U.S. citizens or lawfully residing aliens, 3) residents of Virginia, 4) uninsured and currently ineligible for any state or federal health insurance

¹ Intensive outpatient substance abuse treatment is provided in a day treatment setting that is much longer in duration than outpatient substance abuse treatment that consists of office visits with professionals providing substance abuse treatment.

² This percentage has been changed several times. The initial Emergency/NOIRA regulation that became effective January 1, 2015 set the required income level at 100% of the federal poverty level. This percentage was changed to 60% (effective July 1, 2015) and was changed again, effective October 28, 2016, to 80%. Both of the changes to this percentage were on account of legislative mandates. Currently, yearly household income that meets 100% of the poverty level for one person is \$11,880. Eighty percent of this would be \$9,504. Additional information on poverty level by household size can be found at: <https://www.uscis.gov/sites/default/files/files/form/i-864p.pdf>.

³ Cyclothymic disorder is a type of chronic mood disorder that is considered milder and a subthreshold form of bipolar disorder.

program and 5) not current residents of a nursing home, mental health facility or penal institution.⁴

DMAS staff reports that, as of October 22, 2016, there are 9,434 GAP SMI enrollees, that the per enrollee cost is \$439 per month and that total costs for this program were expected to be \$38.2 million in fiscal year (FY)2016 and \$58.6 million in FY2017. Virginia currently covers half the costs of this program and the federal government covers the other half. DMAS staff also reports that health care professionals who provide care to GAP SMI program participants would have to maintain standard health care records but that such professionals are unlikely to incur additional costs they are not already subject to since records are required to be maintained under other Medicaid rules.

DMAS reports that some of the individuals who are eligible for the GAP SMI program are homeless or transient and may be eligible to sign up for other programs such as Social Security Disability Insurance (SSDI) and Medicaid once they are stabilized under the waiver program. Given this, some individuals will likely only be in the GAP SMI program for a short time. All individuals who are eligible for this program will likely benefit from being enrolled as it will allow them to receive regular medical, mental health and substance abuse treatment that they might not otherwise be able to access. To the extent that uninsured individuals who would be eligible for the GAP SMI program would already be receiving healthcare (likely on an emergency basis), enrollment in the GAP SMI program may allow federal funds to be partially substituted for state funds (as costs for indigent care is covered by the state). This substitution may or may not lead to a net savings of state funds as these individuals will likely be using more healthcare services once enrolled in the GAP SMI program than they would if they remained uninsured.

Implementation of this program may also provide the benefit of reduced public safety costs in Virginia if the individuals enrolled in the GAP SMI program receive treatment that stabilizes their behavior and allows them to avoid committing crimes that might lead to their arrest and incarceration. There is not enough specific information, however, to accurately quantify the benefits of this program. Therefore, there is

⁴ Prisoners who are being released from a jail or prison would be considered for eligibility.

insufficient information to ascertain whether the benefits of this program will outweigh its costs.

Businesses and Entities Affected

This proposed regulatory program affects individuals with serious mental illnesses who meet criteria for the GAP SMI program. DMAS staff reports that 9,434 individuals have met the requirements for the program and been enrolled since January 1, 2015.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory program.

Projected Impact on Employment

These proposed regulatory changes are unlikely to affect employment in the Commonwealth.

Effects on the Use and Value of Private Property

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

Real Estate Development Costs

These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

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

No small business health care professionals are likely to incur additional bookkeeping costs for treating GAP SMI enrollees above what they already incur for adding new patients and these professionals have the choice of whether to treat these enrollees. Health care professionals would be unlikely to take on these patients unless

they expected the benefits of doing so to outweigh the costs. Given this, no small businesses will be adversely affected by these proposed regulatory changes.

Alternative Method that Minimizes Adverse Impact

No small businesses will be adversely affected by these proposed regulatory changes.

Adverse Impacts:

Businesses:

No businesses will be adversely affected by these proposed regulatory changes.

Localities:

Localities in the Commonwealth are unlikely to see any adverse impacts on account of these proposed regulatory changes.

Other Entities:

No other entities are likely to be adversely affected by these proposed changes.

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.

