



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

16 VAC 30-60 Procedural Regulations Governing the Administration of Medical Costs Peer Review by the Regional Peer Review Committees under the Virginia Workers' Compensation Act

Virginia Workers' Compensation Commission

Town Hall Action/Stage: 6542/10430

September 9, 2024

The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Virginia Workers' Compensation Commission (Commission) seeks to repeal the remaining four sections of 16 VAC 30-60 *Procedural Regulations Governing the Administration of Medical Costs Peer Review by the Regional Peer Review Committees under the Virginia Workers' Compensation Act* (Chapter 60), since this chapter was made obsolete by Chapters 279 and 290 (identical) of the 2016 *Acts of Assembly*.

Background

Chapter 60 was originally authorized by *Code of Virginia* §§ 65.2-1300 through 65.2-1310. These Code sections were repealed by Chapters 279 and 290 of the 2016 *Acts of Assembly*.² With the repeal, the Commission no longer had jurisdiction to continue the medical

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² See third enactment clause of <https://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0279> and <https://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0290>.

costs peer review program. Hence, the peer review program was disbanded in 2016. Accordingly, the Commission seeks to repeal sections 110, 120, 130 and 140 of Chapter 60; all other sections were already repealed in 2022.³

In place of the medical costs peer review program, the legislation mandated that the Commission adopt regulations establishing fee schedules setting the maximum pecuniary liability of the employer for medical services provided to an injured person pursuant to the Virginia Workers' Compensation Act, in the absence of a contract under which the provider has agreed to accept a specified amount for the medical service. Such regulation (16 VAC 30-110) was adopted via an exempt action in 2018.⁴

Estimated Benefits and Costs

This regulation is obsolete in that it pertains to a program that no longer has statutory authority and no longer exists. Repealing the regulation would be beneficial in that people who read regulations would not be misled into believing the program still exists.

Businesses and Other Entities Affected

The proposal affects readers of Virginia Workers' Compensation Commission regulations. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁶ Since the repeal of the regulations would not increase net costs or affect revenues, no adverse impact is indicated.

³ Other sections of Chapter 60 were repealed in a previous action, effective December 29, 2022. See <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=6015>.

⁴ See <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=4963>.

⁵ Pursuant to Virginia Code § 2.2-4007.04(D): 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.

⁶ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

Small Businesses⁷ Affected:⁸

The proposed repeal of the regulation would not adversely affect small businesses.

Localities⁹ Affected¹⁰

The proposed repeal of the regulation would not disproportionately affect any particular localities and would not introduce costs for local governments.

Projected Impact on Employment

The proposed repeal of the regulation would not affect employment.

Effects on the Use and Value of Private Property

The proposed repeal of the regulations would not affect the use and value of private property or real estate development costs.

⁷ 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.”

⁸ 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.

⁹ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁰ Virginia Code § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.