Economic Impact Analysis
Virginia Department of Planning and Budget

12 VAC 5-200 and 12 VAC 5-210 – Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals and Charges and Payment Requirements by Income Levels

Virginia Department of Health

October 10, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

§32.1-11 of the Code of Virginia allows the State Board of Health to formulate a program of environmental health services, laboratory services, and preventive, curative, and restorative medical care services to be provided by the Virginia Department of Health (VDH) on a regional, district, or local basis. §32.1-11 of the Code of Virginia also allows the State Board of Health to prescribe a scale of charges for medical care services provided by VDH based on the ability to pay. The State Board of Health is required to periodically review the program and charges adopted by the board.

The regulations propose the following changes: (1) The phrase "health care services" is replaced by the phrase "medical care services" in order to distinguish between services provided by VDH or a contractor hired by VDH and goods and services not directly provided by VDH but

purchased on behalf of patients. The cost to patients of medical care services provided directly by VDH or an entity contracted by VDH will continue to be determined by a sliding scale that rises as the patient's income level rises. The cost of medical care services not directly provided by VDH but purchased on behalf of a patient can now be priced at a flat rate based on the cost incurred by VDH in purchasing these goods and services. (2) The proposed regulations modify the definition of a family or family unit (defined as an individual and other household members who together constitute one economic unit) to include not just individuals legally and biologically related, but also unrelated adults living together and sharing income. The regulation also specifies that a husband and wife who are separated and not living together will be considered separate family units. (3) Income scales used to calculate how much a patient is required to pay for medical care services provided directly by VDH or by an entity contracted by VDH are modified to bring the regulation in compliance with federal regulations. An additional income level eligible for a 5% discount on medical care services provided directly by VDH has been added to the sliding scale. (4) Districts are now allowed to charge flat rates with no discounting for certain high-volume events, such as influenza immunizations, as long as convenient alternate times and venues are provided for eligible individuals to obtain these services at a discount. The flat rate charge has to be approved by VDH prior to being implemented. (5) All eligible applicants are required to apply for Medicaid or other medical insurance programs within 60 days of receiving services from VDH under these regulations. Failure to do so could result in the cost of medical care and related goods and services being assessed at the non-discounted rate and the individual becoming ineligible for a waiver of charges. (6) The length of time for which a waiver of charges can be requested is increased from 90 days to 180 days and the circumstances under which a waiver might be granted are clarified.

The proposed regulations include a number of administrative changes that improve the efficiency and effectiveness of the regulations including: (i) The chapter dealing with the charges and payment requirements by income level is amended. Charts listing the various charges, including the minimum required payment, by income level have been removed from the regulation and will be available at VDH headquarters and district and local health department offices of VDH. The change will allow VDH to update existing charges based on changes in Medicaid and Medicare reimbursement levels and add new charges based on current health needs without having to modify regulatory language. (ii) Changes are made to the process for

determining charges for medical care services provided by VDH or an entity contracted by VDH. In the absence of Medicaid reimbursement, charges are to be based on the appropriate Medicare reimbursement levels. In instances when neither Medicaid nor Medicare reimburse for a service, VDH is allowed to base charges on the cost of providing the medical care services. The proposed change is intended to simplify the calculation and maintenance of charges. (iii) Provisions are incorporated into the proposed regulations that allow for the issuance of a guidance document by VDH which interprets the regulation and provides guidance regarding its implementation.

Additional language is added to the proposed regulations formalizing current practice regarding charges for goods and services provided by contract and specifying the circumstances under which medical care services can be denied. The proposed regulations also streamline the appeals process, add clarifying language, make corrections, and remove redundant language from the existing regulations.

Estimated Economic Impact

(1) The proposed regulations replace the phrase “health care services” by the phrase “medical care services” in order to distinguish between services provided by VDH or a contractor hired by VDH and goods and services not directly provided by VDH but purchased on behalf of patients. Medical care services are defined in the regulation to exclude laboratory tests, pharmaceutical and biological products, radiological and other imaging studies, and other goods, products, and medical services not directly provided by VDH or by an entity contracted by VDH. The cost of medical care services provided directly by VDH or an entity contracted by VDH will continue to be determined by a sliding scale that rises as the patient’s income rises.

The Code of Virginia requires that all medical care services be provided free of charge to medically indigent individuals and allows VDH to develop a sliding scale of charges by income level for individuals not classified as medically indigent. By defining medical care services to exclude goods and services not directly provided by VDH or an entity contracted by VDH, the proposed regulation allows VDH and the local health departments to charge a flat rate regardless of income based on the cost of purchasing these services on behalf of the patient.

According to VDH, the new requirement will apply to pass-through costs incurred by VDH in providing certain goods and services. For example, in instances when tests are

conducted at a private laboratory, the patient will be charged the amount paid by VDH to the laboratory to conduct the test. Under existing policy, VDH gets reimbursed, based on the patient's income, for a fraction of the total pass-through cost.

The proposed change will transfer the cost of purchasing goods and services on behalf of patients from VDH and the local health departments to the patients themselves. VDH will no longer subsidize the cost of these goods and services and individuals currently receiving them at a discounted rate will be required to pay full price for them. While the additional cost to patients as a result of the proposed change will be balanced by the additional savings to VDH and local health departments, the proposed change could impose further economic costs. For example, individuals in the lower income brackets would have to do without certain health-related goods and services due to an inability to pay full price for them. However, VDH believes that this cost is not likely to be significant as these goods and services tend not be offered by VDH and the local health departments currently due to the costs associated with providing these services.

The proposed change is also likely to produce some economic benefits. Under current policy, individuals requiring these goods and services are more likely to purchase them privately, if at all. By allowing districts to charge the cost incurred by them in providing these goods and services, VDH believes that it will encourage districts to offer to purchase these services on behalf of patients. Moreover, VDH believes that these services, if purchased by VDH or local health departments on behalf of patients, are likely to be offered at a lower cost than if the individual were to purchase these services privately.

The net economic impact of the proposed change will depend on whether economic costs (such as low income individuals not having access to certain goods and services due to an inability to pay) associated with the proposed change are outweighed by the benefits of encouraging districts to purchase these services on behalf of patients and the benefits arising out of any ability VDH might have to provide these services at a lower cost than what it would cost an individual to purchase these goods and services privately. VDH does not have data on the number of patients currently receiving these goods and services at a discounted price and their ability to pay full price, if required, for these goods and services. Information on potential cost savings to patients from purchasing these goods and services through VDH as opposed to purchasing them privately and on the number of patients that would benefit from having VDH or

the local health departments purchase these services on behalf of them is also not available. While it is likely that VDH will be able to negotiate a lower price with the provider for these goods and services than if they were to be bought privately, a precise estimate of the cost savings is not possible at this time.

(2) The proposed regulations modify the definition of a family or family unit to include not just individuals legally and biologically related, but also unrelated adults living together and sharing income. Under existing policy, only household members among whom legal responsibilities of support exist can be considered a family unit. The proposed regulations have not been revised in ten years. According to VDH, the proposed change is being made in order to update the regulations to reflect current living patterns, where individuals living together may not be bound by legal or biological relationships. The regulations also specify that a husband and wife who have separated and are not living together will be considered separate family units. The existing regulation states that only couples that are separated and not dependent of each other for support are to be considered separate family units. VDH does not believe that a reference to whether a separated couple is dependent on each other for support needs to be included in the definition of a family unit. Financial support between spouses who are separated is incorporated into the income eligibility criteria used to determine the charges for medical care services provided by VDH.

Expanding the definition of a family unit to beyond individuals legally or biologically related is likely to reduce the discount on medical care services that some patients are eligible for based on their income. Income calculations will now be required to include all shared income regardless of whether a legal or biological relationship exists between members of the household. For example, an applicant living with individual who is not legally or biologically related to them will be required to include the income of that person when seeking discounted medical care services. As a result of this change, some individuals may be moved into a higher income bracket and thus, become ineligible for the level of discount they had been receiving in the past. While precise estimates of the number of individuals likely to be affected by the proposed change are not available, VDH believes that the proposed change is not likely to provide more than $50,000 in cost savings to VDH, with actual savings likely to be significantly lower.

Apart from transferring some of the cost of providing medical care services from the VDH to the patients themselves, the proposed change is likely to produce some additional economic costs and benefits. Potential economic costs associated with the proposed change include individuals choosing not to seek medical care due to the increased cost they would have to pay for these services because of the proposed change. For example, individuals previously classified as income level A (medically indigent) and receiving a 100% discount on medical care services might choose not to avail themselves of these services if they are now classified as income level B and eligible to receive only a 90% discount on these services. The proposed change could also produce additional economic benefits. The proposed change updates the regulations to reflect current economic and social realities. By requiring that income being reported by applicants include all forms of economic support, including but not limited to legal or biological responsibilities of support, the proposed change will allow a better evaluation of an applicant's economic situation and ensure that discounts are provided based on the applicant's true income and need.

The cost savings to VDH will be balanced by the additional costs to some patients arising from the proposed change. Thus, the net economic impact of the proposed change will depend on whether additional costs imposed by the regulations (such as some individuals not being able to afford medical care services under the new requirements) are greater than or less than the additional benefits of better enforcement of the regulations.

(3) The proposed regulations modify the income scales used to calculate how much a patient is required to pay for medical care services provided directly by VDH or by an entity contracted by VDH. The change is being made in order to bring the regulations in compliance with federal family planning regulations. An additional income bracket eligible for a 5% discount on medical care services has been created. Rather than the six income brackets provided for under the existing regulations, the proposed regulations establish seven income brackets. Individuals with income between 200% and 250% of the poverty income guidelines (classified as income level F) will qualify for a 5% discount on medical care services provided by VDH. In northern Virginia, individuals with income between 233.33% and 283.3% of the federal poverty income guidelines will qualify for the 5% discount. Under existing policy, these individuals were required to pay full price for the services.

The proposed change will impose additional costs on VDH and local health departments while providing individuals falling under income level F additional savings. VDH estimates that the proposed change is likely to cost between $500 and $1,000 per district (182-185 local health departments implement these regulations).

Apart from the transferring some of the cost of medical care services from patients to VDH and local health departments, the proposed change is likely to produce some additional economic benefits. Non-compliance with federal requirements could result in federal grant money being withheld. Thus, by bringing these regulations into compliance with federal family planning regulations, the proposed change is likely to ensure that federal grant money is not withdrawn or withheld.

Thus, the proposed change is likely to have a net positive economic impact. The additional cost incurred by VDH will be balanced by the additional discount provided to patients in income level F. In addition, the proposed change will ensure compliance with federal regulations and continued availability of federal funds to support medical care services being provided by VDH at a discounted rate.

(4) Districts are now allowed to charge flat rates with no discounting for certain high-volume events, such as influenza immunizations, as long as convenient alternate times and venues are provided for eligible individuals to obtain these services at a discount. The flat rate charge has to be approved by VDH prior to being implemented. The proposed change is intended to simplify the organization and execution of events where medical services are provided to large numbers of people. These events are usually organized in order to promote the use of these services (such as an influenza vaccine) by the public.

The proposed change is likely to produce some economic benefits by increasing the efficiency with which such high-volume events are conducted. Districts will be able to organize high-volume events more efficiently and provide these medical care services at a lower cost. The increased efficiency is also likely to encourage more people to avail of these services, as less time and effort would need to be expended in order to receive these services.

The additional benefits are likely to be provided at little additional cost. Districts will be required to provide convenient alternative times and venues where applicants can request an eligibility determination and obtain these services at a discounted rate. Thus, while there might

be a small cost associated with receiving these services at alternate venues or times, it is not likely to be significant.

The net economic impact of the proposed change is likely to be positive. Any additional costs arising out of the proposed change are likely to be outweighed by the increase in efficiency in conducting high-volume events.

(5) The proposed regulations require all applicants to apply for Medicaid or a children's medical insurance program within 60 days of receiving services from VDH. Failure to do so could result in the cost of medical care and related goods and services being assessed at the non-discounted rate and the individual becoming ineligible for a waiver of charges.

The proposed change is intended to encourage eligible individuals to apply for financial help under other programs for which they might be eligible. Requiring applicants to apply for Medicaid or other medical insurance program will allow VDH to get reimbursed by the federal government or another state agency for the services provided. Reimbursement from another state agency will involve the transfer of costs from VDH to the other agency and is not likely to have a net economic impact on Virginia. However, requiring eligible individuals to participate in federal programs is likely to produce economic benefits. The proposed change will allow VDH to get reimbursed by the federal government for medical care services provided to an individual eligible for support under federal programs.

The additional benefits are likely to accrue at no significant additional cost to the individual or the state. The individual or the state may incur some additional costs in filling out and filing the required paperwork in order to claim benefits under federal programs. However, these costs are not likely to be significant and are likely to be outweighed by the benefits of federal reimbursement of the costs incurred by VDH in providing these services. Thus, the proposed change is likely to have a net positive economic impact.

(6) The length of time for which a waiver of charges can be requested is increased from 90 days to 180 days and the circumstances under which a waiver might be granted are clarified. VDH believes that 90 days is too short a period of time for waivers to be granted. Waivers tend to be granted when the patients face unusually serious health problems or extraordinary financial hardship. In these instances, VDH believes that 90 days is too short to expect a change in either of these circumstances. Thus, by increasing the period for which the waiver is granted to 180

days, VDH hopes that the regulations will encourage individuals facing unusually serious health problems or extraordinary financial hardship to apply for waivers and ensure better implementation and use of the waiver provision. According to VDH, in fiscal year 2003, 28 waivers were granted in the amount of $3,975.15.

As more people take advantage of the waiver provision, the proposed change is likely to impose additional costs on VDH and local health departments and provide additional benefits to patients eligible for waivers. Given the lack of information regarding the number of people likely to apply for a waiver under the proposed regulations, it is not possible to estimate of the additional cost to VDH and the local health departments and the additional benefits to patients from the proposed change.

Apart from transferring some of the cost of medical care services provided from patients to VDH and local health departments, the proposed change is also likely to produce some additional economic benefits. The 90-day period for which waivers are issued under the existing regulations could have discouraged some individuals from seeking the required health care or completing the required course of treatment. The fear that they might have to bear some of the costs of treatment once the 90-day period was over could conceivably have kept some people from seeking treatment or from completing the required course of treatment. By increasing the length of time for which waivers are valid to 180 days, the proposed change may encourage individuals to seek the treatment and complete the course of treatment they need who might otherwise have chosen not to do so.

Thus, the proposed change is likely to have a net positive economic impact. The additional cost incurred by VDH will be balanced by the additional benefits to patients from the proposed change. In addition, the proposed change may encourage individuals to seek and complete the required the required treatment who might otherwise not have done so.

In addition to the changes discussed above, the proposed regulation also include a number of administrative changes aimed at improving efficiency and effectiveness of the regulations and other changes that simplify, correct, and improve the clarity of the regulations. These changes are not likely to have a significant economic impact. However, to the extent that they lead to better understanding and implementation of these regulations, these changes are likely to produce some economic benefits.

Businesses and Entities Affected

The proposed regulation is likely to affect individuals seeking health care services from VDH or local health departments under this regulation. While some changes (such as requiring patients to pay the full cost of services not provided directly by VDH and the modification to the definition of a family unit) are likely to increase costs for patients, they are likely to provide cost savings to VDH and local health departments. Other changes such as the creation of the additional income category eligible for discounted medical care services and the increase in length of time for which waivers are granted are likely to provide economic benefits to patients but increase costs for VDH and the local health departments. Apart from transferring costs between VDH and patients, these changes are also likely to have additional costs and benefits associated with them (as discussed in the previous section). Changes such as requiring eligible patients to apply for other medical insurance programs and allowing for flat fees with no discounting to be charged at certain high-volume events are likely to produce economic benefits for the state without imposing significant additional costs of patients. Remaining changes, such as the administrative changes, changes formalizing and clarifying current practice, and changes streamlining the appeals process, are likely to produce additional economic benefits by improving the understanding and implementation of the regulations.

Based on information provided by VDH, the following table summarizes the number of people and the total established charges (prior to the discount being applied) for each income classification for fiscal year 2003.

Income Classification	Number of Patients	Established Charges
Income Level A (100% discount)	155,900	$19,691,349.65
Income Level B (90% discount)	8,588	$1,241,102.47
Income Level C (75% discount)	13,478	$1,770,489.85
Income Level D (50% discount)	11,201	$1,247,097.34
Income Level E	5,965	$614,440.09

(25% discount)		
Income Level F (0% discount)	34,596	$1,970145.44
Income Level G (0% discount)	4	$58.29
Total	229,728	$26,534,624.84

Localities Particularly Affected

The proposed regulation will affect all localities providing health-related services under these regulations. According to VDH, between 182 and 185 local health departments are currently providing services under these regulations. As mentioned in the previous sections, some of the proposed changes are likely to increase costs while others are likely to lower costs to localities associated with providing services under these regulations. It is not possible to calculate the net impact of all the proposed changes at this time.

Projected Impact on Employment

The proposed regulation is not likely to have a significant impact on employment.

Effects on the Use and Value of Private Property

The proposed regulation is not likely to have a significant impact on the use and value of private property.