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 30-130 Amount, Duration and Scope of Selected Services
Department of Medical Assistance Services
Town Hall Action/Stage: 4502/8176
October 29, 2018

Summary of the Proposed Amendments to Regulation

Pursuant to legislative mandates, the Board of Medical Assistance Services (Board) proposes numerous changes to the provision of psychiatric residential treatment services. These changes were already been implemented under an emergency regulation on July 1, 2017.[1] The proposed regulation is a permanent replacement for the emergency regulation.

Result of Analysis

The benefits likely exceed the costs for the proposed amendments.

Estimated Economic Impact

Pursuant to Item 301.PP and OOO, paragraphs 7-18, Chapter 665 of the 2015 Acts of Assembly, the Board proposes to eliminate Level A group homes as they did not meet the federal Centers for Medicare and Medicaid requirements and to change the definition of "Level B" group homes to "Therapeutic Group Homes." In response to the legislative mandates, the Board also proposes: changes to plan of care requirements, medical necessity requirements, discharge planning, required clinical activities and documentation for Therapeutic Group Homes (TGH); changes to Early and Periodic Screening, Diagnostic and Treatment criteria, Independent Assessment, Certification and Coordination Team (IACCT) provider requirements and required

[1] http://townhall.virginia.gov/L/viewstage.cfm?stageid=7424

activities, admission practices, plan of care requirements for Psychiatric Residential Treatment Facilities (PRTF); and changes to service authorization and continued stay requirements both for PRTF and TGH.

According to DMAS, since 2001, when residential treatment services were first implemented, individuals have not had access to standardized methods of effective care coordination upon entry into residential treatment due to locality influence and DMAS reimbursement limitations. This has resulted in a fragmented coordination approach for these individuals who are at risk for high level care and remain at risk of repeated placements at this level of care. The residential treatment prior authorization and utilization management structures require an enhanced care coordination model to support the individuals who receive this level of service to ensure an effective return to the family or caregiver home environment with follow up services to facilitate ongoing treatment progress in the least restrictive environment. The added coordination is required to navigate a very complex service environment for the individual as they return to a community setting to establish an effective aftercare environment that involves service providers who may be contracted with a variety of entities such as managed care organizations, enrolled providers, the local Family Assessment and Planning Team (FAPT), local school divisions and the local Community Service Boards.

DMAS states that FAPT composition prior to the emergency regulation was not consistent with the federal Medicaid requirement for certifying a child for a Medicaid-funded residential treatment placement. Changes to the program were necessary to address the concerns that arose from the reliance upon the FAPT to fulfill the role as the federally mandated independent team to certify residential treatment. The emergency regulation implemented the IACCT approach to attain specific clinical outcomes for all residential care episodes prior to managed care enrollment thorough discharge from residential treatment. IACCT ensures meaningful communication across all parts of the Children’s Services Act providers, Department of Behavioral Health and Developmental Services, Managed Care Organizations, and fee-for-servicer systems to maximize efficiency of activities, eliminate duplicative and/or conflicting efforts, and ensure established timelines are met. In addition, the Virginia Independent Clinical Assessment Program (VICAP) process was originally used to streamline high quality comprehensive assessments for services; however, VICAP was sunset in order to use funds to pay for the IACCT.

These proposed changes are intended to ensure appropriate utilization and cost efficiencies. Prior to the emergency regulation, the total expenditures relating to the affected services were approximately $113 million. In fiscal year 2018, the total expenditures decreased to $89.2 million. While the precise total financial impact of these changes have not been quantified, available data show that members utilizing PRTF have decreased from 1,104 in the first quarter of 2016 to 887 in the third quarter of 2018 (a 20% reduction); that members utilizing TGH have decreased from 349 in the first quarter of 2016 to 311 in the third quarter of 2018 (an 11% reduction); that members utilizing Level A group homes have decreased from 349 in the first quarter of 2016 to 0 in the third quarter of 2018 (because it was completely eliminated); that average length of stay in PRTF decreased from 215.2 days to 209 days (a 6.2-day reduction); and that average length of stay in TGH decreased from 142.8 days to 120.9 days (a 21.9-day reduction).

Moreover, between September 2017 and August 2018, 3,231 IACCT inquiries were received; 2,353 of these inquiries were referred for assessment. Primary reasons for inquiries not leading to assessment included families not returning calls, families deciding to continue with community services instead, members had been placed in juvenile detention, families declining residential services; 2,009 of the assessments recommended a residential placement (1,421 PRTF and 588 in a TGH). The remaining 344 individuals who received an assessment but not recommended for a residential placement, were recommended for community services.

According to DMAS, the proposed changes are essential for compliance with 42 CFR 441.153, which is prerequisite for federal match and for members to receive services as appropriate.

Finally, this regulation has not been updated since 2001 when psychiatric residential treatment services were first provided. Since then major changes have occurred such as provision of behavioral health services through Magellan, the Behavioral Health Service Administrator, implementation of more evidence based service delivery systems, enhanced individualized coordination of care, audit practices, etc. As a result, the proposed changes also clarify provider qualifications including licensing standards; pre-admission assessment requirements, program requirements, discharge planning and care coordination requirements in greater detail. Changes such as those are not expected to create any significant economic impact upon promulgation of

this regulation. Added clarity of the regulatory requirements however would improve compliance and produce a net benefit.

Businesses and Entities Affected

This regulation applies to 90 therapeutic group homes, 18 residential treatment facilities, 23 organizations (including Community Service Boards, Comprehensive Services Act providers, and private entities) providing Independent Assessment Certification and Coordination services, and 128 Family Assessment and Planning Teams.

Localities Particularly Affected

No locality should be affected any more than others.

Projected Impact on Employment

The proposed amendments were implemented in July 2017. No impact on employment is expected upon promulgation of the proposed amendments. However, the implementation of the emergency regulations may have had a negative impact on group homes' and residential treatment facilities' demand for labor to the extent it improved efficiencies and eliminated duplicative and/or conflicting efforts. The establishment of the IACCT approach should have added to demand for labor for them to perform their functions.

Effects on the Use and Value of Private Property

No effects on the use and value of private property is expected upon promulgation of the proposed amendments.

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 proposed amendments do not impose costs on small businesses; however, to the extent they improve efficiencies and eliminate duplicative and/or conflicting efforts, they may reduce group homes and residential treatment facility revenues.

Alternative Method that Minimizes Adverse Impact

There is no known alternative method that would minimize the adverse impact while accomplishing the same goals.

Adverse Impacts:

Businesses:

The proposed amendments should not adversely affect businesses upon promulgation.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do 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 14 (as amended, July 16, 2018). 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.