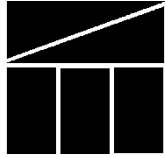


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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: 5094 / 8347
February 11, 2019

Summary of the Proposed Amendments to Regulation

The Board of Medical Assistance Services (Board) proposes to no longer require submittal of Community Mental Health (CMH) services marketing materials for review and approval to the Department of Medical Assistance Services (DMAS) prior to their use or dissemination.

Result of Analysis

The benefits likely exceed the costs for the proposed regulation.

Estimated Economic Impact

Currently, this regulation requires in essence that marketing and promotional materials related to CMH services: 1) comply with federal and state laws, 2) completely and accurately describe all information required for customers to make fully informed decisions, 3) be distributed only to service areas in the license, and 4) be submitted to DMAS for review and approval prior to their use or dissemination.

However, CMH services were added to Commonwealth Coordinated Care Plus (CCC Plus) on January 1, 2018 and providers now contract with CCC Plus Managed Care Organizations (MCOs). Also, CMH services were added to Medallion 4.0 managed care plans beginning in August, 2018.

The contracts between DMAS and the MCOs set out the marketing rules the MCO must comply with. Then each MCO provider must comply with the marketing rules included in the MCO contract. According to DMAS, MCOs require submission of marketing plans and must approve them before their providers may proceed with the campaign. Also, almost all CMH providers are now enrolled in a MCO network. Thus, under the current language they are required to comply with their MCO's marketing rules as well as this regulation and submit to and obtain approval from DMAS creating a double system of review. The Board proposes to no longer require submission and approval of marketing materials to and from DMAS (i.e. repeal of requirement #4 above). This change would also apply to a few fee-for-service only providers that do not have a contract with an MCO.

DMAS believes that the MCO contracts would ensure appropriate marketing practices for providers in an MCO network and the requirements #1 - #3 above would ensure appropriate marketing practices for fee-for-service only providers.

The net impact of this proposed change is relieving all CMH providers from submitting their marketing and promotional materials to DMAS for approval and obtaining approval before commencing any marketing campaign. The review and approval have been performed by a contractor on behalf of DMAS. DMAS estimates that there were about 18 submissions of marketing materials for review and approval per month prior to shifting CMH services to CCC plus and Medallion 4. Since the shift, DMAS has not in practice required that it receive the marketing and promotional materials related to CMH services for providers in an MCO network. No longer requiring this submission of materials provides some staff time savings to MCO network providers and eliminates possible delays in commencement of their marketing campaign.

The reviews of fee-for-service only providers are still being performed. These are the providers that have no contract with any of the MCOs. The DMAS contractor has reviewed only two marketing materials from fee-for-service providers after the shift of CMH services to managed care. Therefore, small DMAS contractor staff time savings and provider staff time savings associated with submission review and approval of marketing materials from fee-for-service only providers are expected upon promulgation.

DMAS may also benefit from this change in the future as the reduced staff time from its contractor may lead to a reduction in the contract bid amount, or may allow DMAS to obtain other services at the same bid amount. Finally, this change would eliminate the possibility of a conflict or misinterpretation that could exist between two separate sets of rules relating to marketing practices.

Businesses and Entities Affected

The proposed change applies to all Medicaid CMH providers. As of March 10, 2018, there were 14,693 providers. Most of these providers are small businesses.

Localities Particularly Affected

The proposed regulation does not disproportionately affect particular localities.

Projected Impact on Employment

The impact on providers with an MCO contract has already been realized. Thus, no impact on those providers is expected upon promulgation. The impact on the few fee-for service providers have not been realized yet, and those providers are expected to experience some staff time savings when this change is promulgated.

Effects on the Use and Value of Private Property

Similarly, a few fee-for-service only providers should see a small positive impact on their asset values as they can reduce their labor costs by a small amount when the proposed change becomes final.

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 regulation does not impose costs on small businesses. The other effects on small businesses are the same as discussed above.

Alternative Method that Minimizes Adverse Impact

The proposed regulation does not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed regulation does not adversely affect businesses.

Localities:

The proposed regulation does not adversely affect localities.

Other Entities:

The proposed regulation does 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.