



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

12 VAC 30-50 Amount, Duration, and Scope of Medical and Remedial Care and Services Department of Medical Assistance Services

Town Hall Action/Stage: 5985 / 9669

November 16, 2022

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 these economic impacts.¹

Summary of the Proposed Amendments to Regulation

On behalf of the State Board of Medical Assistance Services (Board), the Director of the Department of Medical Assistance Services (DMAS) proposes to update the rate-setting methodology for the Program of All-Inclusive Care for the Elderly (PACE) services in order to reflect the capitation methodology currently being used.

Background

PACE services are provided to Medicaid members who are fifty-five years of age or older and who are medically qualified for nursing homes or home-based care. Members may select PACE as an alternative community based and more holistic approach to their care needs. These individuals do not overnight at the PACE facility, nor do they necessarily receive services each day. While medical care such as doctors' appointments, physical therapy appointments, and occupational therapy appointments is available at the PACE facilities, the facilities provide social support services as well as occasional transportation services.

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.

According to DMAS, the General Assembly passed a directive in 2011 to expand the “principles of care coordination to all geographic areas, populations, and services.” Based on this mandate, DMAS gradually transitioned more and more Medicaid members into managed care from fee-for service. As this occurred, DMAS transitioned from using fee-for-service data to managed care data to determine PACE payment rates.

To set PACE rates, DMAS has to use data from a comparable population that is not enrolled in PACE. This comparable population consists of non-enrolled PACE members who receive long-term services and supports (LTSS). For many years, this LTSS population was enrolled in fee-for-service. However, in response to General Assembly mandates mentioned previously, DMAS enrolled more and more populations into managed care, including this LTSS population. Consequently, over time, DMAS had to transition from using fee-for-service data to managed care data to set the PACE rates because the comparable LTSS population transitioned from fee-for-service to managed care.

In managed care, a per-member per-month capitation payment is made to the provider. PACE payments are made using capitation rates that represent a percentage of the amount that would otherwise been paid for the comparable population under fee-for-service. DMAS’s actuary has transitioned from using fee-for service data to managed care encounter data when determining the amount that would otherwise have been paid for a comparable population. However, the current text of the regulation does not reflect the change in the rate methodology. The proposal would update the text so that it reflects the capitation payment methodology that is already being used for these members, and which has already been approved by the Centers for Medicare and Medicaid Services.²

Estimated Benefits and Costs

The main benefit of this action is to amend the regulation to reflect current rate-setting practices for the PACE population and improve the clarity and the accuracy of the text.

Generally, the total payments to the PACE population are to be lower than the payments would have been under the fee-for-service methodology. However, no data are available to demonstrate that this expectation for this mandated change in service delivery method has been

² <https://www.dmas.virginia.gov/media/4598/va-22-0004-approval-package.pdf>

met. According to DMAS, there were 1,600 members receiving PACE services as of March 2022, and that the approximate cost of these services in fiscal year 2022 was \$96 million.

Businesses and Other Entities Affected

DMAS reports that as of March 2022, there were 1,600 members receiving PACE services from 12 providers. No members or providers appear to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, the proposal merely updates the text to reflect the rate setting methodology for the PACE population. Thus, no adverse impact is indicated.

Small Businesses⁴ Affected:⁵

The proposed amendments do not adversely affect small businesses.

Localities⁶ Affected⁷

No localities are disproportionately affected. There are no costs to local governments as a result of these changes.

Projected Impact on Employment

The proposed amendments do not affect total employment.

³ Pursuant to 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. 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.

⁴ 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.”

⁵ 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.

⁶ “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.

⁷ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Effects on the Use and Value of Private Property

The proposed amendments do not affect the use and value of private property or the real estate development costs.