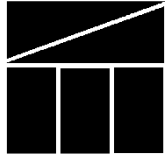


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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

22 VAC 30-80 Auxiliary Grants Program
Department for Aging and Rehabilitative Services
Town Hall Action/Stage: 4637/8194
April 11, 2018

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 567 of the 2016 Acts of Assembly¹, the Department for Aging and Rehabilitative Services (DARS) proposes to add supportive housing as a third residential setting in which individuals may receive Auxiliary Grants (AG).

Result of Analysis

The benefits likely exceed the costs.

Estimated Economic Impact

An AG is an income supplement for individuals who receive Supplemental Security Income and certain other aged, blind, or disabled individuals who reside in a licensed assisted living facility (ALF) or an approved adult foster care home. AG is the primary state funding available for assisted living for low-income individuals in Virginia. In 2016, the General Assembly made supportive housing available to up to 60 AG recipients as a third residential setting. The legislative mandate required that supportive housing be available to ALF residents after 12 months from the initial assessment. DARS implemented the legislative mandate through

¹ <http://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0567>

an emergency regulation.² DARS now proposes a permanent regulation to replace the emergency regulation.

Supportive housing links decent, safe, affordable, community-based housing with flexible support services designed to help the individual stay housed and live a more productive life in the community. Even though the legislation provides supportive housing for up to 60 individuals, only 13 individuals have been placed in supportive housing so far.

The proposed regulation is beneficial to the AG recipients who would like to move into a supportive housing setting from an ALF setting. By opting in for supportive housing, they reveal that they receive a net benefit from that move. The proposed regulation also benefits supportive housing providers as they receive \$100 monthly for the AG recipients they place in supportive housing.

The effect of a recipient's choice to move into supportive housing on the ALF provider does not appear to be significant. Because supportive housing is available only to ALF residents, it is essentially a substitute for ALF setting under the legislative design. However, because the AG rate is widely considered inadequate,³ when a resident leaves an ALF that may not necessarily significantly hurt the ALF provider. In 2012, the Joint Legislative Audit and Review Commission (JLARC) reported that the AG rate was well below Virginia's market prices for assisted living, then averaging about \$3,700 per month. JLARC also reported that the AG rate was so low that some ALFs have stopped accepting AG recipients, while others would only care for relatively high-functioning AG recipients or would struggle to meet standards unless the facility has some special circumstance or additional sources of funding.

Similarly, the supportive housing option would not necessarily cause an increase in AG expenditures. The fiscal impact would depend on whether the empty ALF bed after the move would be filled by another AG recipient or not. If new AG recipients replace those who left, then we would expect an increase in the AG recipient population and expenditures⁴; but if the empty

² <http://townhall.virginia.gov/l/ViewStage.cfm?stageid=7701>

³ <http://jlarc.virginia.gov/pdfs/reports/Rpt426.pdf>

⁴ A recipient typically receives \$568 monthly from AG (of that \$454 or 80% is state funded and \$114 or 20% is locally funded), \$735 from federal Supplemental Security Income, and \$16 in food stamp benefits. From these amounts, \$750 is paid for rent, \$83 for utilities, \$354 for personal expenses (e.g. transportation, food, phone, medical copays, personal care, etc.) and \$132 fixed fee for the provider.

beds are filled by private pay recipients, or remain empty, we would see no change in the AG recipient population or the expenditures. It is not clear which result is more likely.

Businesses and Entities Affected

The legislative mandate allows up to 60 ALF residents to move into a supportive housing setting. There are three supportive housing providers in the Commonwealth. Since January 2017, 13 individuals have been placed in a supportive housing setting. In fiscal year 2017, there were 4,047 individuals residing in fewer than 300 ALFs.

Localities Particularly Affected

The proposed changes apply statewide. However, there are currently only three supportive housing providers. These providers serve the counties of Roanoke, Salem, Botetourt, Craig, Bland, Carroll, Grayson, Galax, Smyth, Wythe, Henrico, Chesterfield and the cities of Richmond and Roanoke. Under the proposed regulation, the local portion of the AG is funded by the locality where the individual is provided supportive housing. Thus, these localities may be disproportionately affected as supportive housing is not available in other localities at this time.

Projected Impact on Employment

Whether the supporting housing option will have a significant impact on demand for ALF services or supportive housing services is not clear. Thus, the potential impact on employment is uncertain.

Effects on the Use and Value of Private Property

Whether the supportive housing option will have a significant impact on demand for ALF services or supportive housing services is not clear. Thus, the potential impact on the asset values of ALF providers and supportive housing providers is uncertain.

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

Most if not all of the ALF providers are small businesses. The costs and other effects of the proposed regulation on them is the same as above. There are only three supportive housing providers. The proposed regulation does not impose costs on them. The other effects on them are the same as discussed above.

Alternative Method that Minimizes Adverse Impact

It is not clear whether supportive housing adversely affects ALF providers.

Adverse Impacts:

Businesses:

The proposed amendments do not have an adverse impact on non-small businesses.

Localities:

Twenty percent of AG funding comes from localities. Notwithstanding the disproportional impact on certain localities discussed above, it is not clear whether supportive housing will cause an increase in AG recipient population and expenditures.

Other Entities:

The proposed amendments will 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 Number 17 (2014). 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.