



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

22 VAC 45-70 Provision of Services in Rehabilitation Teaching
22 VAC 45-80 Provision of Independent Living Rehabilitation Services
Department for the Blind and Vision Impaired
Town Hall Action/Stage: 5476/9153
March 19, 2021

Summary of the Proposed Amendments to Regulation

Pursuant to findings from a periodic review of both chapters, the Department for the Blind and Vision Impaired (DBVI) seeks to revise 22 VAC 45-70 (chapter 70) and repeal 22 VAC 45-80 (chapter 80) in its entirety.¹ The independent living services that are addressed in chapter 80 are no longer being provided in the same way that they were when the regulation was first promulgated, and have instead been folded into the provision of rehabilitation training covered by chapter 70. Thus, DBVI seeks to amend chapter 70 to update the department name, certain definitions, and the title and content of the chapter to align with current DBVI practices. The agency would also repeal chapter 80 since its provisions would be redundant.

Background

Pursuant to the periodic review, DBVI proposes to make a number of changes to chapter 70. The most significant changes are summarized as follows:

- i. Changing the title of the regulation from “Provision of Services in Rehabilitation Teaching” to “Regulations Governing the Provision of Rehabilitation Teaching and Independent Living Services.”
- ii. Updating the agency name from “Department for the Visually Impaired” to the current name, “Department for the Blind and Vision Impaired.”

¹ More information about the periodic reviews can be found on the Virginia Regulatory Town Hall (Town Hall) at <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=5476>.

- iii. Updating the definition of blindness and adding a definition of deafblind to reflect current practice.
- iv. Adding the words, “and independent living” throughout the regulation to clarify that those services are included along with rehabilitation teaching.
- v. Renaming “Individualized Written Rehabilitation Program” to “Rehabilitation Teaching/Independent Living Program Plan” (RT/IL plan) to reflect that individualized plans would include both types of services.
- vi. Sections 20, 30, 40, 60 and 70 would be amended to update the referral process, eligibility criteria, eligibility determination process, development of the RT/IL plan, and scope of services, respectively. The proposed amendments to these sections would largely update the language to match current practice.
- vii. In section 30, optometrists would be added as a category of professionals who would be authorized to determine blindness for the purpose of eligibility for services. Currently, the regulation only authorizes ophthalmologists to make such determinations. However, DBVI reports that optometrists are included in eligibility determinations for their other programs and that this was merely an oversight.
- viii. Finally, eligibility for financial participation in cost of services (22 VAC 45-70-80) would be revised to include individuals with a household income that exceeds 80 percent of the federally estimated median income for Virginia. The threshold for financial participation in 22 VAC 45-70-80 is currently 100 percent of the median income, whereas the corresponding threshold in 22 VAC 45-80-80 (which would be repealed) has always been 80 percent.

Although item viii above suggests that the eligibility threshold for financial participation would be lowered for some individuals receiving rehabilitation training, DBVI reports that the proposed amendment would only reflect its current practice, which has been in place since 2012. Specifically, DBVI reports that the federal funds that once supported the Independent Living services identified in chapter 80 were no longer available after about 2000. Since then, DBVI has coordinated and provided independent living services as part of its Rehabilitation Teaching/Independent Living (RT/IL) Program and as ancillary services through its Vocational

Rehabilitation Services Program.² Currently, the RT/IL program is fully state funded and serves individuals up to age 55.³

Estimated Benefits and Costs

The proposed amendments to chapter 70 as well as the repeal of chapter 80 would clarify various aspects of DBVI's RT/IL program as it currently stands, which would benefit readers of the regulation. The proposed changes would not create any new costs, either for individuals participating or seeking to participate in the RT/IL program or for the licensed professionals who provide such training and services. Lastly, by repealing chapter 80, this regulatory action would also contribute to Virginia's regulatory reform efforts by eliminating a redundant and unnecessary regulation.

Businesses and Other Entities Affected

DBVI reports that roughly 1,400 individuals were served under the RT/IL program in 2020, with roughly 800-900 individuals in the program on any given date. In general, services are provided internally by DBVI employees, including certified Rehabilitation Teachers, Orientation and Mobility Instructors, Vocational Rehabilitation Counselors, and Technology Technicians who have Master's degrees and are either licensed or certified by various organizations that have oversight over those particular professions. DBVI employees operate out of six field offices (Bristol, Roanoke, Stanton, Fairfax, Norfolk, and Richmond) and often work with individuals in their homes to develop and implement their individualized RT/IL plans. As mentioned above, both individuals receiving or seeking to receive RT/IL program services, as well as providers of these services would benefit from clear and accurate information in the regulation. Individuals with a household income between 80-100 percent of the federal median income would now be required to financially participate in their rehabilitation training. However, as mentioned previously this requirement has been in effect since 2012.

² See the Agency Background Document at https://townhall.virginia.gov/l/GetFile.cfm?File=47\5476\9153\AgencyStatement_DBVI_9153_v2.pdf. DBVI further clarified that, "there is no prohibition on how an agency determines to use or not use means testing to purchase goods and services to individuals receiving RT/IL services. However, because funds are quite limited in the RT/IL program, the agency elected to change the family income eligibility percentage for participation in cost of services from 100% to 80% of the federally estimated median income agency sometime around 2011/2012."

³ Individuals over the age of 55 are covered by the Older Bling Grant, which is covered by limited federal funds and the required state match.

Small Businesses⁴ Affected

Since most services are provided directly by DBVI employees, the proposed amendments are unlikely to impact businesses, including small businesses.

Localities⁵ Affected⁶

The proposed amendments do not introduce new costs for local governments and are unlikely to affect any locality in particular.

Projected Impact on Employment

The proposed amendments are unlikely to affect the employment by DBVI or by vendors of low vision aids and rehabilitation technology.

Effects on the Use and Value of Private Property

The proposed amendments are unlikely to affect the use and value of private property. Real estate development costs are not affected.

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(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 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

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 “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.

⁶ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

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.