



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

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**12 VAC 30-120 – Waiver Programs: Elderly or Disabled with Consumer Direction**  
**Department of Medical Assistance Services**  
May 14, 2013

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to Chapter 890, Item 297 CCCCC of the 2011 Acts of Assembly, the proposed regulation establishes criteria for cases where the number of hours per week of personal care services may exceed the limit of 56 hours.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

Pursuant to Chapter 890, Item 297 CCCCC of the 2011 Acts of Assembly, the proposed regulation establishes criteria for cases where the number of hours per week of personal care services may exceed the limit of 56 hours. Currently, there are no criteria for any exceptions to the limit on the coverage of personal care services.

In this same act, the General Assembly imposed a limit of 56 hours of personal care services per week for Medicaid recipients who participate in the Elderly or Disabled with Consumer Direction waiver. The act also required the Department of Medical Assistance Services (DMAS) to provide for individual exceptions to this limit using criteria based on the dependency in activities of living, the level of care, and the risk of institutionalization. Consequently, DMAS adopted an emergency regulation to establish the service limit and exceptions which became effective on July 1, 2011. The service limit has already been made permanent through an exempt regulatory action since DMAS did not have any discretion in implementing it. This action makes permanent the exemption criteria that have been in effect under the emergency regulation.

According to DMAS, 37.5% of the requests for personal care hours beyond 56 hours per week were approved (804 out of 2,139) in fiscal year 2012. The 68 percent of these approvals were for agency-directed personal care which costs \$13.20 per hour and 32 percent were for consumer-directed personal care which costs \$10.24 per hour. The average number of hours provided for the exception was 70.6 hours. Thus, the total fiscal cost of this exemption is estimated to be \$695,498 per year. One half of this cost is borne by the state while the rest is funded by the federal government.

The main benefit of the proposed exemption is allowing access to personal care services for those individuals who require more than the maximum limit of 56 hours of per week imposed by the same act. In addition, the providers will continue to benefit from this exemption as they will avoid a potentially larger reduction in their revenues. Moreover, DMAS will have a uniform procedure to apply to all exemption requests and will be supported in appeals that Medicaid individuals may file when they have been denied personal care hours in excess of 56 per week. Finally, avoiding a larger reduction in federal funds coming in to the Commonwealth's economy should have a positive overall economic impact.

### **Businesses and Entities Affected**

There are 423 home health and personal care agencies providing personal care services to Medicaid recipients. In fiscal year 2012, there were 2,139 requests for additional personal care hours of which 804 were approved.

### **Localities Particularly Affected**

The proposed regulation applies throughout the Commonwealth.

### **Projected Impact on Employment**

The proposed exemption will allow providers to provide additional hours of personal care services than would otherwise be possible. Thus, a positive impact on demand for labor providing personal care services is expected due to this change.

### **Effects on the Use and Value of Private Property**

The proposed exemption should have a positive impact on the asset value of personal care provider businesses by avoiding a potentially larger reduction in their revenues.

## **Small Businesses: Costs and Other Effects**

Most of the home health and personal care agencies providing personal care services are believed to be small businesses. The proposed exemption does not impose costs on small businesses. Other effects on small businesses are the same as discussed above.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

The proposed exemption is not anticipated to have an adverse impact on small businesses.

## **Real Estate Development Costs**

No effect on real estate development costs is expected.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, a determination of the public benefit, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.