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 30-30 Groups Covered and Agencies Responsible for Eligibility Determination
12 VAC 30-40 Eligibility Conditions and Requirements
Department of Medical Assistance Services
Town Hall Action/Stage: 4374 / 7244
February 16, 2017

Summary of the Proposed Amendments to Regulation

On behalf of the Board of Medical Assistance Services, the Director of the Department of Medical Assistance Services proposes to amend these regulations to reflect a change in Medicaid eligibility methodology mandated by the federal Affordable Care Act (ACA).

Result of Analysis

The benefits exceed the costs for all proposed changes.

Estimated Economic Impact

Prior to January 1, 2014, eligibility for Medicaid Families and Children groups was based on the rules of the old Aid to Families with Dependent Children (AFDC) program. This program ended in 1997 when it was replaced by Congress with block grants to the states. However, the Medicaid program continued to use those rules in determining eligibility for children younger than the age 19, parent/caretaker relatives and pregnant women. In addition, prior to January 1, 2014, there was no provision for covering former foster care children younger than age 26.

Effective January 1, 2014, ACA required eligibility for health coverage under all health insurance affordability programs – including Medicaid -- to be based on a new Modified Adjusted Gross Income (MAGI) methodology. Calculating applicants' MAGI eligibility entails defining household composition and executing income-counting procedures based on Internal Revenue Service rules. These changes were required by the federal law to be made in State Plans for Medical Assistance.

These changes impact eligibility determinations for children younger than age 19, certain groups of children younger than age 21, pregnant women, and parent/caretaker relatives and therefore, require a change in current regulations. An additional change mandated by the ACA requires states to cover former foster care children between the ages of 18 and 26 who were receiving foster care and Medicaid on their 18th birthday and subsequently aged out of the program.

With the implementation of the use of MAGI rules for determining eligibility as required by the ACA, rules based on the old AFDC program can no longer be used. States are mandated to use MAGI rules in determining eligibility for those populations. States are also required to cover the group of former foster care children. The Commonwealth has a mandate from CMS to use MAGI rules in determining eligibility as required by the ACA. Additionally, the Commonwealth has a mandate to cover former foster care children. There is no option except to use the new federal rules. DMAS submitted its MAGI State Plan changes to CMS and they have been approved. Pursuant to the federal mandate, the adoption of the MAGI methodology has already been adopted into the State Plan and is in effect. Thus, the proposal to amend these regulations to reflect the federally mandated change in Medicaid eligibility methodology will have no impact beyond reducing the likelihood that readers of the regulations are misled as toward the methodology that is in effect.

Businesses and Entities Affected

The proposed amendments affect readers of these regulations who may have been misled as toward the Medicaid eligibility methodology that is in effect.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property

The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

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 amendments do not significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do 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.

lsg