



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

12 VAC 30-20 Administration of Medical Assistance Services
Department of Medical Assistance Services
Town Hall Action/Stage: 6180 / 9918
July 25, 2023

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 the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Director of the Department of Medical Assistance Services, on behalf of the Board of Medical Assistance Services, proposes to update the regulation to reflect that with the implementation in 2021 of the new online portal for provider appeals, date stamps can be applied to documents electronically.

Background

A provider appeal is a request for a neutral party to review the action taken by the Department of Medical Assistance Services (DMAS) or one of its contractors that impacts either a provider's reimbursement for services rendered to a Medicaid recipient or a provider's enrollment as a Medicaid participating provider. It is a two-step process that begins with an informal appeal. If the provider disagrees with the decision issued, the second step is to file a formal appeal.

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.

When a document is required to be filed in a provider appeal, the current regulatory language states that the document is considered filed when it is date stamped by DMAS. In 2021, however, DMAS launched the Appeals Information Management System (AIMS) portal² as a way for providers and their authorized representatives to submit informal and formal provider appeals, track the status of appeals, upload documents, review appeal documents, and withdraw appeals, free of charge. AIMS helps ensure provider appeals are processed pursuant to regulations governing Medicaid appeals, particularly the dismissals for DMAS and providers if certain steps are not completed within specified timeframes. The use of AIMS is optional as such providers without easy access to the portal can continue to use regular U.S. mail, a delivery service, or submit documents via electronic mail or facsimile.

This action would add to the regulation that when DMAS or a provider uses the appeals portal, the date stamp will be automatically applied electronically to any submitted document, and this date stamp will be considered the date of the filing.

Estimated Benefits and Costs

Since the appeals portal was made available in 2021, a date stamp has been automatically applied to any documents filed via the portal, which has been considered as the date when the document is filed. The proposed amendments to the regulation would incorporate this practice into the regulatory text.

Because the proposed changes update the regulatory text to incorporate a current practice, the main benefit of this change is to clarify that documents submitted during a provider appeal via the portal will be electronically date stamped and considered filed on that date.

Businesses and Other Entities Affected

All Medicaid enrolled providers have the right to appeal adverse actions. DMAS currently has approximately 80,000 unique enrolled providers. The proposed amendments primarily affect providers that file an informal or a formal appeal. In 2022 and 2021, there were 7,199 and 6,102 total appeals (both informal and formal) filed respectively.³ No providers appear to be disproportionately affected.

² See <https://appeals-registration.dmas.virginia.gov/provider>

³ Data source: DMAS

The Code of Virginia requires the DPB to assess whether an adverse impact may result from the proposed regulation.⁴ 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 proposed changes would update the regulatory text to reflect the current practice of electronically applying a date stamp to documents filed through the portal the use of which is optional and free of charge. Thus, no adverse impact is indicated.

Small Businesses⁵ Affected:⁶

Although most of the 80,000 unique enrolled providers in Medicaid are small businesses, the proposed amendments do not appear to adversely affect them.

Localities⁷ Affected⁸

The proposed amendments do not disproportionately affect any particular localities, nor introduce costs for local governments.

Projected Impact on Employment

The proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property

The proposed changes do not appear to affect the use and value of private property nor real estate development costs.

⁴ 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.

⁵ 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.”

⁶ 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.

⁷ “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.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.