Virginia Department of Planning and Budget
Economic Impact Analysis

12 VAC 30-122 Community Waiver Services for Individuals with Developmental Disabilities
Department of Medical Assistance Services
Town Hall Action/Stage: 6186 / 9926 Fast-Track
July 30, 2026

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 17 (2026). 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 Board of Medical Assistance Services (Board) seeks to adjust the post-eligibility special earnings allowance for Developmental Disabilities (DD) waiver services, as mandated by the 2022 *Appropriations Act*. The proposed changes would simply update the regulation to reflect current practice, because the 2022 mandate has already been implemented.

Background

Individuals under the Family and Individual Supports Waiver, Community Living Waiver, and Building Independence Waiver, which are collectively known as the DD Waivers, receive payments from the Department of Medical Assistance Services (DMAS) to cover the costs of home and community-based services. Section 60 of the regulation, which establishes the patient pay methodology, reduces this payment by the individual's total income after certain deductions have been made for personal maintenance needs, other dependents, and medical needs. These deductions include a "special earnings allowance" for individuals who are

[1] See Code § 2.2-4007.04 (A).

employed: 300 percent of Social Security Income (SSI) for individuals working 20 or more hours a week, and 200 percent for individuals working eight to 20 hours per week.[2]

Item 304 ZZ of the 2022 *Appropriations Act* directed DMAS to adjust the special earnings allowance for DD waiver recipients by lowering the minimum number of hours from eight to four, thereby allowing more part-time workers to retain their income (up to 200 percent of SSI, which is $1,988 per month for 2026)[3] and not have that amount be subtracted from their benefits.[4] Accordingly, the Board seeks to make this change in two places in section 60: in subsection B.3.a, which applies to individuals subject to § 1924(d) of the Social Security Act (married individuals with an institutionalized spouse and a non-institutionalized spouse), and in subsection B.3.b, which applies to individuals not subject to § 1924(d) of the Social Security Act (single individuals or married individuals where both spouses are institutionalized).

Estimated Benefits and Costs

The proposed amendments would benefit readers of the regulation by ensuring that the regulation is clear and conforms to statute and current practice. As mentioned previously, the underlying mandate would benefit DD waiver recipients who are able to work part-time by allowing those who work between four to eight hours a week to avoid reductions to their benefits. Conversely, maintaining the benefit amounts for these workers removes a potential reduction in expenditure for DMAS; however, since this change was made through the *Appropriations Act*, any resulting fiscal impacts do not result from this regulatory change.

DD waiver applications are processed through Community Services Boards, and DMAS delegates waiver operational authority to the Department of Behavioral Health and Developmental Services (DBHDS) through an interagency agreement. DBHDS has certain employment targets for adults who are aged 18 to 64 on DD waivers. Expanding the special earnings allowance for part-time work could also support DBHDS in meeting the employment targets.

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[2] Although the current regulatory text does not include the eight hour minimum, DMAS has confirmed that it was applied in practice.

[3] See https://www.ssa.gov/oact/cola/SSIamts.html.

[4] This change was also made for individuals in the Commonwealth Coordinated Care Plus Program. See https://townhall.virginia.gov/L/ViewStage.cfm?stageid=9986.

Businesses and Other Entities Affected

DBHDS data indicates that there are approximately 20,240 individuals with a DD waiver and another 14,258 individuals on the waitlist.[5] A DBHDS semi-annual report indicates that 1,138 individuals with DD waivers were employed as of December 2025.[6]

The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.[7] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[8] As noted above, the proposed amendments implement the provisions of the 2022 *Appropriations Act* and reflect current practice. Thus, an adverse impact is not indicated.

Small Businesses[9] Affected:[10]

The proposed amendments would not adversely affect small businesses.

Localities[11] Affected[12]

The proposed amendments would neither affect any locality in particular, nor introduce costs for local governments.

Projected Impact on Employment

The proposed amendments are intended to incentivize part-time employment for individuals with DD waivers; any impact to this effect would result from the budget mandate.

Effects on the Use and Value of Private Property

The proposed amendments would not affect the use and value of private property. The proposed amendments do not affect real estate development costs.

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[5] See https://dbhds.virginia.gov/wp-content/uploads/2026/01/Developmental-Disability-Waivers-2026.pdf.
[6] See page 76 of https://dbhds.virginia.gov/wp-content/uploads/2026/06/FY26-June-Semi-Annual-Report_Final.pdf.
[7] See Code § 2.2-4007.04 (D).
[8] 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.
[9] 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.”
[10] See Code § 2.2-4007.04 (A.2). and Code § 2.2-4007.1 (C).
[11] “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.
[12] Code § 2.2-4007.04 defines “particularly affected" as bearing disproportionate material impact.