



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

**12 VAC 30-50 Amount, Duration, and Scope of Medical and Remedial Care and Services
Board of Medical Assistance Services
Town Hall Action/Stage: 6369 / 10322
September 18, 2024**

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

Pursuant to Chapter 266 of the 2023 Acts of General Assembly,² the Director of the Department of Medical Assistance Services (DMAS), acting on behalf of the Board of Medical Assistance Services, proposes to update the regulation to add authorization for payments for the initial purchase or replacement of complex rehabilitative technology manual and power wheelchair bases and related accessories for patients who reside in nursing facilities.

Background

The Medicaid reimbursement of manual and power wheelchair bases and related accessories for patients in nursing homes has been allowed since July 1, 2023, under the legislation. This regulatory action updates the regulatory language for the provision of such durable medical equipment by Medicaid, and as such the regulation itself is not changing the status quo.

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.

² <https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0266>

DMAS reports that prior to the enactment of Chapter 266 in 2023, many DME providers were not willing to accept members' patient pay for wheelchair bases and related accessories because the DME provider had to recoup the cost of the item via the patient pay each month until the item has been paid in full, which sometimes took years. (Patient pay refers to the member's obligation to pay toward the cost of long-term care if the member's income exceeds certain thresholds). If a DME company did not accept the patient pay adjustment, or if the Medicaid member did not have the patient pay amount, the member had to pay out of pocket for the needed equipment if they were able. This has created access issues for some members who resided in nursing facilities.

To address such access issues, Chapter 266 authorized Medicaid to pay for initial purchase or replacement of CRT manual and power wheelchair bases and related accessories for patients who reside in nursing facilities allowing DME providers to bill Medicaid directly for the items instead of using the patient pay adjustment process. This action would update the regulatory language to incorporate the provision of this new benefit.

Estimated Benefits and Costs

According to DMAS, the legislation's coverage for the initial purchase or replacement of CRT manual and power wheelchair bases and related accessories for nursing facility members through the DME program ensures the mobility needs of those who have complex medical conditions are met, allows members to maintain a higher level of independence, and provides them with access to the same equipment available to those Medicaid members cared for in the community settings. CRTs have also been shown to increase continuity of care and prevent complications like bedsores or falls.

The fiscal impact statement for the legislation³ estimated that annually \$1,272,060 in state general funds and \$1,335,690 in federal matching funds (i.e., \$2.6 million total funds) would be needed to purchase approximately 379 wheelchairs at an expected average cost of \$6,884.46 per wheelchair across 250 nursing facilities based on a survey conducted by a workgroup (HB 241) originating from the 2022 General Assembly. A more recent estimate from DMAS, as of April 16, 2024, indicates the total annual cost to be \$2.4 million (i.e., \$1,147,888 in general funds, and \$1,242,549 in federal matching funds).

³ <https://lis.virginia.gov/cgi-bin/legp604.exe?231+oth+HB1512FER122+PDF>

Approximately, one half of the total costs of this benefit is absorbed by the state general funds and the remaining half is provided by the federal government. While general fund dollars represent an expenditure of state funds, which could potentially be used for other purposes, the federal funds are a net injection into the Commonwealth's economy. In other words, if it was not for this purpose, the federal funds would not be available. Thus, the additional federal funds should help expand Virginia's economy.

However, since this benefit has already been provided under the legislation, the only impact of this regulatory action is to update the regulatory text to reflect the provision of this benefit to Medicaid members residing in nursing facilities.

Businesses and Other Entities Affected

The proposed changes incorporate in the regulation reimbursement authorization of an estimated 379 wheelchairs per year for Medicaid members residing in nursing facilities. No entity appears to be disproportionately affected.

The Code of Virginia requires 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 benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ As noted above, the proposal simply updates the regulation to incorporate a new benefit provided by legislation. Thus, no adverse impact is indicated on account of this regulatory action.

Small Businesses⁶ Affected:⁷

The proposed amendments do not appear to adversely affect small businesses.

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.

⁵ 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.

⁶ 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."

⁷ 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

Localities⁸ Affected⁹

The proposed amendments do not introduce costs for localities.

Projected Impact on Employment

This regulatory action by itself does not affect total employment.

Effects on the Use and Value of Private Property

No impact on the use and value of private property nor on real estate development costs is expected on account of this regulatory action.

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.

⁸ “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.

⁹ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.