Economic Impact Analysis
Virginia Department of Planning and Budget

22 VAC 40-25 – Auxiliary Grants Program
State Board of Social Services
June 2, 2009

Summary of the Proposed Amendments to Regulation

The State Board of Social Services proposes to 1) add a 90-day Virginia residency requirement for Auxiliary Grant eligibility, 2) replace the annual audit requirement with an annual certification requirement, and 3) clarify several existing requirements.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

These regulations establish rules for the Auxiliary Grant (AG) program. The program provides supplemental financial assistance to Social Security Income recipients and aged, blind, or disabled individuals residing in a licensed assisted living facility (ALF) or an adult foster care (AFC) home. The program, funded by 80% state and 20% local monies, absorbs the difference between the ongoing provider reimbursement rate and the Social Security Income and provides a personal needs allowance. The current reimbursement rate for nine Northern Virginia localities is $1,279 per month while the rate for the rest of the state is $1,112. The current personal needs allowance is $81 per month. In fiscal year 2008, the amount of assistance provided to a monthly average caseload of 5,425 individuals was approximately $29.7 million.

With this regulatory action, the State Board of Social Services (the board) proposes to 1) add a 90-day Virginia residency requirement for Auxiliary Grant eligibility, 2) replace the annual audit requirement with an annual certification requirement, and 3) clarify several existing requirements.

The current AG policy allows a non-Virginia resident to move into an ALF located in Virginia and establish Virginia residency immediately for the AG benefit. This easy access to the AG benefit has created incentives to move into Virginia from neighboring states where similar benefits do not exist or are less than the AG benefits. According to Department of Social Services, 60 percent of cases sampled in Bristol were found to be former Tennessee residents prior to receiving AG benefits. Similarly, 64 out of 206 (31 percent) September 2008 cases in Washington County resided in Tennessee prior to receiving AG benefits. Given the $515 Washington County's average monthly AG benefit, approximately $395,520 per year is estimated to be expended on individuals who were not Virginia residents immediately prior to residing in an ALF. While the size of the abuse at the state level is probably much greater, no reliable statewide estimate is available at this time.

The proposed regulations will require a minimum of 90-day Virginia residency immediately prior to receiving AG benefits. This proposed change is expected to reduce significantly the number of out-of-state residents who relocate to Virginia in order to take advantage of the AG program. Since the program is funded by 80 percent state funds and 20 percent local funds, state and local governments where the abuse currently occur most are expected to gain the most from this proposed change. An accurate description of the benefits of the reduced AG spending will depend on where the expected savings in state and local funds will be spent.

Also, if the move of needy people into Virginia is made less attractive by the proposed residency requirement, there may be other avoided costs in government spending in some other areas.

The main cost of the proposed residency requirement, on the other hand, is expected to fall on the individuals who would have moved into a Virginia ALF without having at least a 90-day residency prior to their move. The size of this cost is estimated to be about three times the average monthly AG benefit. For example, if a Tennessee resident moves into a Washington County ALF, he or she would not receive, under the proposed changes, the AG benefit for the first 90 days which would amount to approximately $1,545.

In addition, the ALF facilities that are currently enjoying heightened admission requests from non-Virginia residents will likely see a reduction in demand for their services. Reduced excess demand for ALFs will likely cause a reduction in free market price of ALF care and an increase in the number of empty beds.

The proposed regulations will also replace the annual audit requirement with an annual certification requirement. The main goal of the audit or the certification is to make sure that facilities maintain personal funds of residents appropriately and do not commingle these funds with other facility funds. The board amended regulations which became effective in 2007 to require the facilities to have an annual financial audit to make sure personal funds are maintained separately. According to DSS, later it was determined that the financial audit requirement was overly burdensome and also did not correctly reflect the original intent of the board. Instead, an annual certification prepared by the facilities is found to be sufficient. Thus, the financial audit requirement has never been enforced in reality. Since the proposed change merely reflects what is being enforced in practice, no significant economic effect is expected other than improving the clarity of the regulations.

Similarly, the board proposes to clarify requirements regarding ALF's participation in the AG program; submission of the provider agreement; assessment process for emergency ALF placements; procedures for discharging residents from facilities. The board also proposes to use person centered language throughout the regulation. While all of these clarifications are expected to improve the clarity of the regulations and reduce possible misunderstandings, no other significant economic effect is expected.

Businesses and Entities Affected

The proposed regulations apply to 323 ALFs that accept AG recipients and 68 approved AFC homes. These facilities provided services to a monthly average caseload of 5,425 individuals in fiscal year 2008.

Localities Particularly Affected

The proposed regulations is expected to affect the most localities where non-Virginia residents are moving to in ALFs without establishing residency in Virginia first. These localities are believed to be counties of Biristol, Washington, Scott, Russel, Smyth, and Lee.

Projected Impact on Employment

The proposed residency requirement is expected to reduce the demand for beds in ALFs and consequently have a negative impact on demand for labor providing assisted living services. On the other hand, a corresponding increase in the demand for other goods and services are expected elsewhere depending on where the realized savings are spent. Thus, the statewide net impact on employment is unknown, but likely to be small.

Effects on the Use and Value of Private Property

The expected reduction in demand for ALF beds is likely to reduce revenues and consequently asset values of facilities providing services to AG recipients. While the asset values of businesses where the expected savings maybe spent are expected to increase, it may be spread over many types of goods and services to be significant.

Small Businesses: Costs and Other Effects

The proposed regulations are expected to reduce revenues of ALFs most of which are believed to be small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There is no alternative method under these regulations that would minimize the impact.

Real Estate Development Costs

The proposed regulations are not expected to have any effect on real estate development costs.

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.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, 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 adverse effect on small businesses, Section 2.2-4007.H 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.