Economic Impact Analysis
Virginia Department of Planning and Budget

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12 VAC 30-40 – Department of Medical Assistance Services
Reasonable Limits on Amounts for Necessary Medical or Remedial Care Not Covered Under Medicaid
September 8, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

Pursuant to the Code of Virginia,[1] the proposed regulations will establish upper limits for the amounts that can be deducted from nursing home residents' income prior to calculating their contribution toward Medicaid's reimbursement to nursing homes for the nursing homes' costs of care.

Estimated Economic Impact

Although Medicaid pays the nursing home charges, nursing home residents must participate in the costs of their care by making payments from their monthly incomes. This contribution of the nursing home recipients toward Medicaid payments is known as "patient pay." The patient pay contribution is less than a resident's income because of several deductions. About $30 is set aside from the income for personal expenditures (toothbrush,

[1] Chapter 1042 of the 2003 Acts of Assembly, item 325 BBB.

candy, etc.). Also, the expenses for non-Medicaid covered medical or remedial services are paid from their income. The remainder is the patient pay amount, or the amount residents contribute to their costs of care. Thus, the higher the amount of deductions, the less money is paid toward nursing home costs as patient pay.

For example, if a nursing home resident receives $330/month from Social Security, $30 is set aside as personal funds, with the remaining $300 being counted toward nursing home costs as patient pay. If the resident purchases dentures costing $1,500, then no money can be counted toward Medicaid costs for five months until the denture bill is paid off. If the dentures were to cost $1,200, then the nursing home resident starts contributing $300 toward the nursing home costs in the fifth month.

Currently, there is no limit on non-Medicaid covered medical or remedial expenditures that can be deducted from a nursing home recipient's income. The most common types of these medical or remedial services are dentures, specialized motorized wheelchairs, eyeglasses, and hearing aides. It is estimated that approximately $912,082 is deducted from residents' income in Virginia to cover these expenses. The proposed changes will establish limits for these medical or remedial expenses that can be deducted from nursing home residents' income. The proposed limit is the higher of the Medicaid or Medicare rate allowed. The department estimates that the proposed limit for these expenses will reduce the deductions from residents' income by $136,500 per year, or by 15% of the total deductions and increase the amounts counted toward nursing facility costs as patient pay. Thus, this change is expected to provide an equivalent amount of savings in the Medicaid operating expenditures, approximately half of which will have been funded by the state.

This change will also affect the providers and recipients in several different ways. Imposing a limit on the medical or remedial expenses that can be deducted from income will provide incentives to providers and recipients not to exceed the Medicaid or Medicare rate, whichever is higher. The degree of potential effects on Medicaid enrolled and non-enrolled providers will likely be different.

The differential effect is expected because Medicaid-enrolled providers will not be allowed to balance bill the recipients an amount higher than the proposed limit while non-enrolled providers will be free to balance bill the service recipient. Such recipients would be expected to pay such balances from other available sources of income, if there are any. This means that the highest amount Medicaid enrolled providers can expect to be paid is the proposed rate. Knowing the highest amount they can expect to be paid, Medicaid enrolled providers are most likely not sell their most expensive products in excess of the allowed rate, or they could be expected to reduce their profit margins if possible. Thus, depending on a provider's response, there is a chance that a nursing home resident's access to the most expensive medical or remedial products from Medicaid-enrolled providers may be reduced. Further, a recipient wishing to purchase these products with available resources other than income might be provided incentives to buy them from non-enrolled providers, as they are free to bill any amount.

Though not as strong, the proposed change will introduce similar incentives for non-enrolled providers. The authority of the these providers to collect additional monies from recipients in excess of the proposed limits will not be prohibited, but will be relatively more difficult. This is because the proposed change will eliminate the use of income as a direct means to pay for these products or services and leave recipients with fewer other purchase options. For example, a recipient may use the funds set aside for personal expenditures to pay for the portion of the bill in excess of the allowed rate, or may convince family members to pay for the difference. The higher the uncertainty in collecting the difference for the provider, the more likely it is that this change will produce similar economic effects as those for Medicaid enrolled providers.

Businesses and Entities Affected

The proposed regulations will affect nursing home residents who purchase non-covered medical or remedial services and providers of such services. While there is no estimate available for the number of residents, approximately 84 dentists, 65 audiologists, and 20 durable medical equipment companies may be affected.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The estimated size of the fiscal effect on the providers does not appear to be large enough to have a significant effect on employment.

Effects on the Use and Value of Private Property

Similarly, due to the size of the estimated fiscal impact, no significant change in the value of privately owned provider businesses is expected.