Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes ☒ Not Needed ☐

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).

Virginia Department of Planning and Budget

Economic Impact Analysis

12 VAC 30-130 – Addiction and Recovery Treatment Services (ARTS)
12 VAC 30-50 – Amount, Duration and Scope of Medical and Remedial Services
12 VAC 30-60 – Standards Established and Methods Used to Assure High Quality Care
12 VAC 30-70 – Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services
12 VAC 30-80 – Methods and Standards for Establishing Payment Rates; Other Types of Care
Department of Medical Assistance Services
Town Hall Action/Stage: 4692/7734
December 21, 2016

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 780 (Item306 MMMM) of the 2016 Acts of the Assembly[1], and on behalf of the Board of Medical Assistance Services (Board), the Director of the Department of Medical Assistance (DMAS) proposes to newly promulgate a comprehensive regulation for addiction and recovery treatment services (ARTS) as well as amend several other regulations to harmonize them with the new ARTS regulation. DMAS also proposes to change the qualifications for substance abuse case managers eligible to provide Medicaid billable substance abuse case management.

Result of Analysis

Benefits likely outweigh costs for all regulatory changes that harmonize these regulations with the current legislative mandate. Costs will likely outweigh benefits for eliminating pathways to case manager qualification to provide Medicaid billable services.

[1] More information on this mandate can be found at http://townhall.virginia.gov/L/viewmandate.cfm?mandateid=743

Estimated Economic Impact

Item 306-MMMM of Chapter 780 directs DMAS to "to provide coverage of inpatient detoxification, inpatient substance abuse treatment, residential detoxification, residential substance abuse treatment and peer support services in the Fee-for-Service and Managed Care Delivery Systems." Budget language also directed DMAS to make programmatic changes so that substance abuse treatment services are paid the same as medical and mental health services (within the limits of the funding appropriated for that purpose).

Board staff reports that currently and until April 1, 2017, Virginia only funds limited kinds of substance abuse services for limited groups of Medicaid eligible individuals (mostly children up to the age of 21 and pregnant women). Board staff reports that currently many community-based treatment services such as residential treatment, opioid treatment, day treatment, crisis intervention, intensive outpatient treatment and case management services are excluded from coverage by Medicaid managed care organizations. Such treatments were, instead, managed by DMAS's contracted behavioral health services administrator Magellan. DMAS staff reports that, because of these exclusions and alternate arrangements for substance abuse, substance abuse treatment for Medicaid recipients has historically been fragmented and piecemeal. The rate structure for substance abuse treatment services has not been changed since 2007. Consequently, low reimbursement rates have severely limited the number of providers willing to treat Medicaid patients.

To address these issues, and to meet its budget mandate, DMAS now proposes to bring substance abuse treatment services under the managed care umbrella, expand covered services to all Medicaid eligible individuals, increase the types of services covered and increase the rates paid for these services. Specifically, coverage for inpatient detoxification, inpatient substance abuse treatment, residential detoxification and residential substance abuse treatment will be expanded to all Medicaid eligible individuals (on April 1, 2017), payment rates will increase 50% for case management services and 400% for partial hospitalization, intensive outpatient treatment and the counseling component of medication assisted treatment (on April 1, 2017) and coverage for peer recovery coaching will be added (on July 1, 2017).

DMAS reports that a disproportionately high number of Medicaid covered individuals have substance abuse issues. Currently 1.1 million Virginians are covered by Medicaid or

FAMIS. In state fiscal year 2015, DMAS reports that 216,555 of those individuals had an (illicit) substance use diagnosis. Expanding coverage and increasing payment rates will likely induce more providers to treat drug affected Medicaid recipients. This treatment may, in turn decrease future Medicaid and other welfare payments if treated individuals are able to take on more personal responsibility for meeting their own life needs. Since drug affected individuals disproportionately require hospitalization and/ or stabilization in hospital emergency rooms, providing for more substance abuse treatment may cut down on the costs incurred in those areas. These possible benefits must be weighed against the costs for increase treatment/ payment rates. The General Assembly appropriated $5,204,824 (half general fund and half non-general fund) to pay for these changes during fiscal year 2017. For fiscal year 2018, they appropriated $16,752,518 (again, half general fund and half non-general fund).

In addition to making changes mandated by Chapter 780, DMAS also proposes to change the qualifications that would allow individuals to provide Medicaid billable substance abuse case manager services. Currently, such individuals must meet one of the following sets of criteria:[2]

- Have at least a Bachelor's degree in social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation or human services counseling and have at least one year of substance abuse related clinical experience providing services for persons with a diagnosis of mental illness or substance abuse,
- Be licensed by the Commonwealth as a registered nurse or as a practical nurse and have at least one year of clinical experience or
- Have at least a Bachelor's degree in any field and have certification as a certified substance abuse counselor (CSAC) or have a Bachelor's degree in any field and have certification as a certified addictions counselor (CAC).

DMAS proposes to amend these allowable qualifications so that licensed practical nurses and those with a Bachelor's degree in any field and who are CAC certified will no longer be qualified to provide Medicaid billable substance abuse case management services. DMAS reports that these changes were recommended by the ad hoc committee that advised DMAS on these regulations and that these changes were recommended to make this regulation consistent with American Society of Addiction Medicine (ASAM) standards. DMAS reports that this will

[2] Please see 12-30-50-491 E.2 for these requirements.

affect at least one locally run Community Services Board (CSB) who has a licensed practical nurse employed as a case manager. These amendments may also affect other CSBs or the one Behavioral Health Authority (BHA) in the Commonwealth if they too have staff that are currently employed as case managers that meet current qualifications but would not meet the more restrictive proposed qualifications.

To the extent that CSBs and BHAs now have case management staff that perform substance abuse case management and have qualifications that DMAS proposes to disallow, these organizations would either have to hire staff who have the new more stringent qualifications or get current staff eligible under the proposed regulation by, for instance, getting them qualified to sit for the Board of Counselors CSAC exam. DMAS staff reports that they do not know if CSBs and BHAs pay for staff training or certification but, if they do, the proposed qualification standards would drive up costs for localities and those costs would not be paid for with the money already appropriated by the General Assembly to support the new ARTS program. If there are individuals who meet current qualification requirements to provide Medicaid billable substance abuse case management services but who would not meet the narrower proposed qualification requirements, these individuals and the organizations they work for will be adversely impacted by these changes. Although ASAM considers the proposed qualifications to be best practice standards, other standards may be more appropriate if staff that are currently providing quality case management services now, or would be capable of providing quality services in the future, are precluded from doing so by these proposed changes. Additionally, since fewer providers will likely meet these more restrictive qualifications, these changes may have the effect of making case management services more scarce and more expensive to procure. Absent evidence that these individuals have been doing their jobs poorly, costs likely outweigh benefits for these proposed changes.

Businesses and Entities Affected

These proposed regulatory changes will affect locally run CSBs/BHAs, inpatient hospitals, some physicians and nurse practitioners, case managers, residential treatment facilities, group homes and outpatient clinics as well as all Medicaid recipients. DMAS reports that there are currently 1.1 million Medicaid recipients in the Commonwealth and that there are 39 CSBs and one BHA run by various localities in the Commonwealth.

Localities Particularly Affected

Locally run CSBs/BHAs or their staff may incur costs because of proposed qualifications for case managers who provide Medicaid billable case management services.

Projected Impact on Employment

To the extent that expanding substance abuse services coverage and increasing payment rates for Medicaid recipients increases utilization and expand the number of providers willing to take Medicaid patients, more individuals may be employed as substance abuse treatment providers or support staff for providers in the Commonwealth.

Effects on the Use and Value of Private Property

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

Real Estate Development Costs

These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

Small Businesses:

Definition

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."

Costs and Other Effects

Small business substance abuse treatment providers may see increased revenue from Medicaid patients on account of this proposed regulation.

Alternative Method that Minimizes Adverse Impact

No small businesses will be adversely affected by these proposed regulatory changes.

Adverse Impacts:

Businesses:

Businesses in the Commonwealth are unlikely to experience any adverse impacts on account of this proposed regulation.

Localities:

Locally run CSBs/BHAs or their staff may incur costs because of proposed qualifications for case managers who provide Medicaid billable case management services.

Other Entities:

At least one licensed practical nurse who currently provides case management services at a CSB, and likely others, will be adversely affected by these proposed regulations. Affected individuals will have to incur costs for becoming a CSAC assistant and will no longer be able to do their job independently (without supervision) as they can now by virtue of being licensed as practical nurses. This will make them less desirable employees as CSBs would have to have another employee qualified to supervise these individuals.

Legal Mandates

General: The Department of Planning and Budget 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 Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report 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.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): 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 within the 45-day period.

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.

amh