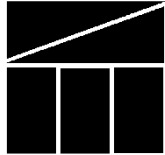


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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 30-60 Standards Established and Methods Used to Assure High Quality Care
Department of Medical Assistance Services
Town Hall Action/Stage: 4799/7905
April 23, 2018

Summary of the Proposed Amendments to Regulation

The Board of Medical Assistance Services proposes to replace the current Level of Functioning (LOF) survey standards with the new Virginia Individual Developmental Disabilities Eligibility Survey (VIDES) standards for individuals seeking care in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs).

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The LOF survey has been a screening tool used to determine the level of care eligibility for certain mental health services since 1987. It assesses individuals in areas such as health status, communication, task learning, personal/self-care, mobility, behavior, and community living skills. Beginning in 2013, the Department of Medical Assistance Services (DMAS) in collaboration with the Department of Behavioral Health and Developmental Services (DBHDS), began a major overhaul of its waiver programs for intellectually and developmentally disabled citizens.

During the course of revamping the waiver programs that provided services in community settings¹, DMAS and DBHDS replaced the outdated LOF survey with the Virginia Individual Developmental Disability Eligibility Survey (VIDES). The new VIDES survey assesses individuals in the same areas as the LOF survey, but also includes an additional assessment on self-direction skills. Self-direction skills include making and implementing daily personal decisions regarding daily schedule and time management; making and implementing major life decisions such as choice and type of living arrangements; demonstrating adequate social skills to establish/maintain interpersonal relationships; demonstrating the ability to cope with fears, anxieties, or frustrations; demonstrating the ability to manage personal finances; and demonstrating ability to protect self from exploitation.

The added focus on self-direction has resulted from a recent federal emphasis on providing for and encouraging person-centered planning, activities, and program focus following the 1999 United States Supreme Court decision in *Olmstead v. L.C.*, which requires that individuals with disabilities be served in the most integrated settings that are possible for their particular circumstances.² Agencies that are charged with serving these individuals are now required to promote individuals' participation in developing their own plans of care that must incorporate the individuals' goals and objectives for their lives.

Adopting the use of the VIDES standards for individuals seeking institutional care in ICF/IIDs restores consistency to the standards applied to such individuals regardless of whether services are to be received in communities or institutions. The expected result is that all such affected individuals will be evaluated by the same updated criteria as before the implementation of the new waiver designs.

DMAS does not expect the change in the survey to affect the number of individuals placed in ICF/IIDs. Thus, the proposed adoption of the VIDES survey should not create any significant financial impact on the Commonwealth. To the extent the new survey accommodates

¹ These waived programs were originally called the Individuals and Families with Developmental Disabilities (DD), the Intellectual Disabilities Waiver (ID), and the Day Support Waiver (DS). The DD waiver is being replaced with the Family and Individual Supports (FIS) waiver; the ID waiver is being replaced with the Community Living (CL) waiver, and; the DS waiver is being replaced with the Building Independence (BI) waiver.

² 527 U.S. 581 (1999).

self-direction and updates screening standards with modern criteria, the proposed regulation should create a net benefit.

Businesses and Entities Affected

There are approximately 57 ICF/IIDs enrolled with DMAS. Some of these may be small businesses. These facilities have approximately 530-bed capacity.

Localities Particularly Affected

The proposed changes do not disproportionately affect any locality more than others.

Projected Impact on Employment

No impact on employment is expected.

Effects on the Use and Value of Private Property

No impact on the use and value of private property is expected.

Real Estate Development Costs

No impact on real estate development costs is expected.

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

The proposed regulation does not impose costs and other effects on small businesses.

Alternative Method that Minimizes Adverse Impact

There is no adverse impact on small businesses.

Adverse Impacts:

Businesses:

The proposed regulation does not adversely affect businesses.

Localities:

The proposed regulation does not adversely affect localities.

Other Entities:

The proposed regulation does not adversely affect other entities.

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.