

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<sup>1</sup>  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

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**12 VAC 30-141 Family Access to Medical Insurance Security Plan**  
**Department of Medical Assistance Services**  
**Town Hall Action/Stage: 5173 / 8455**  
March 8, 2019

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### Summary of the Proposed Amendments to Regulation

The Board of Medical Assistance Services (Board) proposes to remove the language allowing exclusion from managed care enrollment for individuals in the third trimester of pregnancy to reflect changes in practice and contracts as they apply to the Family Access to Medical Insurance Security (FAMIS) plan.<sup>2</sup>

### Result of Analysis

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

### Estimated Economic Impact

The purpose of this action is to bring this regulation into alignment with the current FAMIS MOMS contracts and current Medicaid managed care practices.

Current language in this regulation provides an exemption for individuals in the third trimester of pregnancy to opt out of the requirement to enroll in a managed care plan. Prior to 2012, managed care coverage was not available in all parts of Virginia, especially in rural areas

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<sup>1</sup> Adverse impact is indicated if there is any increase in net cost for any entity, even if the benefits exceed the costs for all entities combined.

<sup>2</sup> This exclusion is also proposed to be removed from Medallion 4.0 regulations in a separate regulatory action. See <http://townhall.virginia.gov/l/viewstage.cfm?stageid=8178>

as managed care delivery system in Virginia had been gaining ground but was not fully mature yet. To address this issue, this regulation has allowed pregnant individuals to receive services from fee-for-service providers who were not enrolled in a managed care provider network (e.g. certified professional midwives). In 2012, managed care coverage had become available statewide and currently all six managed care organizations include the 13 major health systems in their network and all providing statewide coverage. As a result of the managed care network expansions, there were only 10 exemption requests last year.

In addition to the changes in practice reducing the number of exemption requests significantly, the Department of Medical Assistance Services (DMAS) plans to add specific contract language effective July 1, 2019 that will address how these pregnant individuals could access the services they need. These changes will stipulate that members in their third trimester of pregnancy will no longer be allowed to request exclusion from managed care enrollment, but will still provide the option of changing health plans if their provider is not contracted with a specific managed care organization, but is a part of another plan's network. In other words, affected individuals will be allowed to switch their managed care network that does not include the provider sought, and enroll in the one that has a contract with the desired provider. If the desired provider is not in the network of any of the six managed care organizations, affected individuals will not have access to that specific provider under the contract language.

However, DMAS plans to revise the existing "Good Cause Exemption" under 12 VAC 30-141-880 to allow qualified pregnant women to temporarily remain in fee-for-service while under the care of a Medicaid enrolled certified professional or licensed midwife. This process will require that pregnant members obtain an attestation from a physician or nurse practitioner (including certified nurse midwives and other nurse practitioners), within the third trimester, that no diagnoses are present which could increase the risk of adverse outcomes for mother or baby. To define these risks, DMAS will work with the Board of Medicine, the Board of Nursing, the American College of Obstetricians and Gynecologists, the American College of Nurse Midwives and other stakeholders, as deemed appropriate.

According to DMAS, the managed care health plans all have 100% network adequacy for prenatal and obstetric care, including obstetricians/gynecologists, nurse practitioners, family physicians, and certified nurse midwives in all regions of the Commonwealth. DMAS also notes

that managed care plans provide a number of innovations to improve outcomes for pregnant women and their infants and ensure that pregnant women receive high quality care and care coordination, which is not available to fee-for-service members. Therefore, DMAS believes the proposed amendments will be beneficial for the affected individuals by assuring quality care. If an affected individual desires to receive services from a fee-for-service-only provider, DMAS is working to provide the option to request it under the “Good Cause Exemption.” The “Good Cause Exemption” determination process will be revised to ensure that only the low-risk pregnancies are allowed an exemption. Thus, the proposed amendments will encourage affected individuals to stay in the managed care network, but will allow exemptions as appropriate.

Provided that DMAS achieves its goal of tailoring the “Good Cause Exemption” to accommodate the affected individuals by the time the proposed amendments become effective, this action should provide a net benefit as it will reflect the changes in contracts and practice without taking away what may be a valued option for some. Otherwise, the net effect would depend on the level of quality achieved by forcing affected individuals to receive services only from a managed care network and the value attached by the pregnant members to receiving services from the fee-for-service-only provider they prefer.

### **Businesses and Entities Affected**

Last year, there were 10 requests to opt out of managed care network to receive services from fee-for-service-only pregnancy care providers.

### **Localities Particularly Affected**

The third trimester pregnancy exclusion has been more common in rural areas such as in Southwest Virginia.

### **Projected Impact on Employment**

The proposed amendments are unlikely to significantly affect total employment.

### **Effects on the Use and Value of Private Property**

The proposed amendments are unlikely to significantly affect the use and value of private property.

### **Real Estate Development Costs**

The proposed amendments would not affect real estate development costs.

**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**

Although a few fee-for-service-only providers may lose a few pregnant Medicaid members as customers due to added encouragement to stay in the managed care network during pregnancy, the costs and other effects are unlikely to be significant.

**Alternative Method that Minimizes Adverse Impact**

The proposed amendments are unlikely to have a significant adverse impact on small businesses.

**Adverse Impacts:****Businesses:**

The proposed amendments are unlikely to have a significant adverse impact on businesses.

**Localities:**

The proposed amendments would not adversely affect localities.

**Other Entities:**

The proposed amendments would 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 14 (as amended, July 16, 2018). 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.