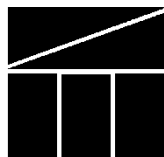


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes¹ Not Needed

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 30-70 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

Virginia Department of Medical Assistance Services

Town Hall Action/Stage: 5302/8651

September 16, 2019

Summary of the Proposed Amendments to Regulation

The Board of Medical Assistance Services (Board) proposes to revise the current regulations to (1) re-classify certain payments made to a freestanding children's hospital in the District of Columbia and (2) allow additional supplemental payments to be issued to nonstate government-owned² acute care hospitals, in order to increase the reimbursement for inpatient services provided to Medicaid patients; the supplemental payments are related to another regulatory action currently underway.

The 2018 Appropriation Act contained budget language in two items that directed DMAS to amend the State Plan for Medical Assistance (state plan). The first Item, 303.SSS, authorized the Department of Medical Assistance Services (DMAS) to amend the state plan such that Disproportionate Share Hospital (DSH) payments for the Children's National Medical Center (CNMC) are discontinued and replaced with an indirect medical education (IME) payment. DSH payments take into account the financial situation of hospitals which serve a disproportionate number of low income patients with special needs. IME payments recognize the higher operating

¹ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

² A nonstate government-owned hospital is owned or operated by a unit of government other than a state.

costs at hospitals with teaching programs (the increased diagnostic and treatment costs related to their educational mission).³

Specifically, the proposed amendment would: (i) make CNMC no longer eligible to receive DSH payments, (ii) increase the annual IME payments made to CNMC by the amount of DSH the hospital was eligible for in state fiscal year 2018 (12 VAC 30-70-291), and (iii) reduce the Type 2 DSH allocation by the same amount (12 VAC 30-70-301). The Act authorized DMAS to implement these changes effective July 1, 2018, prior to the completion of any regulatory action to effect this change. The rationale provided for this budget amendment states that the hospital was at their federal cap, thereby preventing the hospital from being able to accept DSH funding from the Commonwealth. Because the hospital recently met the state threshold to receive IME payments from the Commonwealth, the budget was amended to allow the continuation of such payments in lieu of any future DSH payments.⁴

The second Item, 303.XX.7, directs DMAS to make supplemental payments to Chesapeake Regional Hospital, which is operated by the Chesapeake Hospital Authority.⁵ DMAS is implementing this by amending 12VAC30-70-425, which involves nonstate government owned hospitals such as Chesapeake Regional. This item is related to two separate items in the same Act (3-5.15 and 3-5.16) that affect private acute care hospitals and instruct DMAS to levy a provider coverage assessment and a provider payment rate assessment, in addition to implementing a statewide supplemental payment. These items are being addressed through a different regulatory action that is currently in place as an emergency regulation (Action number 5100).⁶ The proposed amendment in this Action regarding the calculation of this supplemental payment is identical to the language pertaining to supplemental payments in the emergency regulation. Item 303.XX.7 required that DMAS secure approval from the Centers for Medicare and Medicaid Services prior to implementation; this approval was obtained as of October 25th, 2018.

³ <http://sfc.virginia.gov/pdf/health/2010%20Session/062110%20DMAS%20-%20Crawford.pdf>

⁴ <https://budget.lis.virginia.gov/amendment/2018/2/HB5002/Introduced/SE/303/3s/>

⁵ <https://law.lis.virginia.gov/authorities/chesapeake-hospital-authority/>

⁶ <http://townhall.virginia.gov/L/ViewAction.cfm?actionid=5100> The proposed stage of this action is currently at the Office of the Attorney General.

Estimated Benefits and Costs

CNMC would benefit by qualifying to receive IME payments from the state, thereby allowing them to continue receiving funds amount despite having met the federal cap for DSH payments. Because the amount being paid to CNMC would be staying the same, it is unlikely that any other benefits or costs would accrue.

Chesapeake Regional would benefit from receiving any supplemental payments, which should be substantially less than the cost incurred by the hospital to receive them. As described by the budget amendment for this Item, the hospital will make an intergovernmental transfer to DMAS to be used as the state share for the supplemental Medicaid payments to the hospital. In exchange, the hospital will receive a substantially larger amount of federal funds, and the general fund will not be impacted.

Businesses and Other Entities Affected

No other entities are likely to be affected, besides CNMC and Chesapeake Regional as described above.

Localities⁷ Affected⁸

The proposed amendment does not introduce new costs for local governments. Chesapeake Regional is located in Chesapeake; hence the locality may be affected depending on the overall impact of the supplemental payments on the hospital and the number of Medicaid-insured individuals it serves.

Projected Impact on Employment

The proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property

The proposed amendment has no effect on the use and value of private property, nor does it affect real estate development costs.

⁷ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Adverse Effect on Small Businesses⁹:

The proposed amendment does not adversely affect small businesses.

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(D): 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.

⁹ 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.”