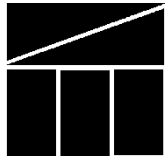


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes<sup>1</sup>  Not Needed

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 30-50 Amount, Duration, and Scope of Medical and Remedial Care and Services**  
**Department of Medical Assistance Services**  
**Town Hall Action/Stage: 5331 / 8680**  
October 21, 2019

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### Summary of the Proposed Amendments to Regulation

The Department of Medical Assistance Services (DMAS) proposes 1) to update this regulation to reflect the removal of the 21-day-per-admission limit in a 60-day period for the same or similar diagnosis or treatment plan for psychiatric inpatient hospitalization, and 2) update terminology and clarify language as well as procedures.

### Background

On March 30, 2016, the Centers for Medicare and Medicaid issued the Mental Health Parity Rule<sup>2</sup> which removed the limit of 21-day-per-admission in a 60-day period for the same or similar diagnosis or treatment plan for psychiatric inpatient hospitalizations. The parity rule was designed to ensure that accessing mental health and substance use disorder services is no more difficult than accessing medical and surgical services. The proposed changes are intended to allow inpatient psychiatric hospitalizations to be service authorized based on medical necessity and not limited to 21 days per admission in a 60-day period. Since 2016, DMAS has not been applying the 21-day limit in delivery of psychiatric inpatient hospitalizations. This action updates

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<sup>1</sup> 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.

<sup>2</sup> <https://www.govinfo.gov/content/pkg/FR-2016-03-30/pdf/2016-06876.pdf>

the regulation to reflect the practice, terminology, and procedure that have been followed since 2016.

### **Estimated Benefits and Costs**

The removal of the 21-day limit applies to both managed care and fee-for-for service delivery models. However, according to DMAS, this limit has never been implemented under the managed care delivery system even before 2016. Thus, the effects of this action are practically limited only to psychiatric inpatient hospitalizations accessed through the fee-for-service delivery system. The removal of the 21-day limit in 2016 has allowed providers to provide and recipients to receive longer hospitalizations. DMAS estimates that there were approximately 200 members who received psychiatric inpatient hospitalizations beyond the 21-day limit at a cost of \$76,922 in total funds or \$38,461 in state funds in a given year. Thus, the main impact of this change is provision of longer psychiatric inpatient hospitalizations since 2016 at an added cost of \$38,461 to the Commonwealth annually.

The remaining changes are not expected to create any significant impact other than improving the readability and clarity of the existing rules and procedures.

### **Businesses and Other Entities Affected**

There are 12 freestanding psychiatric hospitals and 71 general hospitals with psychiatric units and approximately 200 Medicaid members estimated to be affected on an annual basis. The proposed amendments do not appear to impose costs.

### **Localities<sup>3</sup> Affected<sup>4</sup>**

The proposed amendments should not affect any locality more than others. The proposed amendments do not appear to introduce costs for local governments.

### **Projected Impact on Employment**

The proposed amendments would not affect employment.

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

The proposed amendments would not affect the use and value of private property.

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<sup>3</sup> “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.

<sup>4</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

**Adverse Effect on Small Businesses<sup>5</sup>:**

The proposed amendments do 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.

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<sup>5</sup> 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.”