



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: 5831 / 9408
January 19, 2022**

The Department of Planning and Budget (DPB) 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). The analysis presented below represents DPB’s best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

Pursuant to the 2021 Appropriations Act, Item 313.PPPPP, the Board of Medical Assistance Services (Board) proposes to expand the Medicaid treatment services previously offered only to individuals with opioid use disorder to now include individuals with other substance-related or addictive disorders. The Board also proposes to update the regulatory text to reflect certain current practices.

Background

The 2021 Appropriations Act, Item 313.PPPPP² states that the Department of Medical Assistance Services (DMAS) “shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to expand the Preferred Office-Based Opioid Treatment (OBOT) model to include individuals with substance use disorders (SUD) that are covered in the Addiction and Recovery Treatment Services (ARTS)

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² <https://budget.lis.virginia.gov/item/2021/2/HB1800/Chapter/1/313/>

benefit.” Consequently, DMAS obtained approval from the Centers for Medicare and Medicaid Services with an effective date of October 1, 2021. Consequently, this action would incorporate the legislatively mandated expanded eligibility for treatment services to cover individuals with other substance use disorders.

Additionally, this action would update the regulatory text to reflect certain current practices including: 1) aligning the regulatory text with the Board of Counseling’s scope of practice for certified substance abuse counselor supervisees, and 2) allowing three days rather than one day to sign and date multidimensional assessments and individual service plans in response to requests by the provider community.

Estimated Benefits and Costs

Preferred Office-Based Opioid Treatment is a type of outpatient addiction treatment designed for people with opioid use disorder. In 2016, DMAS transformed the Medicaid substance use disorder benefit to address the opioid epidemic. However, DMAS reports that data from the Virginia Department of Health indicate the number of fatal non-opioid illicit drug overdoses is increasing. The purpose of the General Assembly mandate appears to be to offer similar treatment options to individuals with a substance-related or addictive disorder in addition to opioid use disorder. Prior to the legislative mandate, this type of treatment was available only to individuals with a primary diagnosis of opioid use disorder. The mandate expanded this treatment to cover individuals with other substance (e.g. alcohol, cannabis, hallucinogens, inhalants, sedatives/hypnotics, stimulants, polysubstance, etc.) use disorders.

The 2021 General Assembly appropriated \$881,306 in general funds and \$1,296,254 in federal funds to expand this treatment. DMAS estimates that approximately 1,400 members would be using the newly eligible services. The main benefit of this change is the treatment of approximately 1,400 individuals with additional types of substance use disorders. Additionally, the use of federal funds for this expanded coverage represents an injection of new resources into Virginia’s economy with an expected expansionary effect.

The Board also proposes to update the regulatory text to reflect certain current practices in ARTS utilization review. One of these changes would allow certified substance abuse counselor supervisees to complete multidimensional assessments and individual service plans, to be consistent with the Board of Counseling’s scope of practice. This assessment is not

reimbursable and no thus fiscal impact is expected. Another change would extend the time for credentialed addiction treatment professionals to sign and date multidimensional assessments and individual service plans; this would be extended from one to three days in response to requests by the provider community. Providers stated to DMAS that the additional time would allow edits if needed to the assessment and the individual service plan based on the clinical judgment of the supervisor. The intent of this change was to reduce the administrative burden on providers and provide more realistic timeframes for completion. Since these changes have already been incorporated in to current practices, no significant economic effect is expected upon finalizing these proposed changes.

Businesses and Other Entities Affected

According to DMAS there are currently 178 providers offering treatment services for opioid use disorder. Fifty-two of these providers are Community Services Boards, eight are Federally Qualified Health Centers, and the remaining are private providers/clinics. DMAS projects that approximately 1,400 individuals are covered by the proposed expansion.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An 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. The proposed action updates regulatory text to expand treatment services to a broader population pursuant to a legislative mandate. No adverse impact is indicated.

Small Businesses⁴ Affected:⁵

The proposed action does not appear to adversely affect small businesses.

³ 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. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁴ 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.”

⁵ 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

Localities⁶ Affected⁷

The proposed changes do not disproportionately affect particular localities or introduce costs for local governments.

Projected Impact on Employment

The proposed expansion of treatment services to substance abuse disorders other than opioid would add to the demand for such services. Consequently, employment may increase.

Effects on the Use and Value of Private Property

The additional coverage of other substance use disorder treatment services would add to demand for such services and have a positive impact on such providers' revenues and their asset values. Other than that, no effect on the use and value of private property or real estate development costs is expected.

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.

⁶ "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.

⁷ § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.