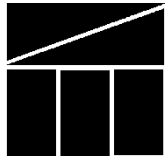


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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 35-105 Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services
Department of Behavioral Health and Developmental Services
Town Hall Action/Stage: 5091 / 8341
September 18, 2018

Summary of the Proposed Amendments to Regulation

The State Board of Behavioral Health and Developmental Services (Board) proposes to allow mental health providers a 15-day grace period for documentation of Individualized Services Plans (ISP).

Result of Analysis

The benefits likely exceed the costs for the proposed regulation.

Estimated Economic Impact

Currently, mental health providers serving Medicaid patients are allowed under the Medicaid regulations¹ a 15-day grace period to document ISPs. ISPs are updated quarterly or whenever there is a revised assessment based on individual's changing needs or goals. However, this regulation currently does not provide a grace period for documentation of such reviews, creating a misalignment between the Medicaid and Board rules. As a result, Board licensed providers currently have less time to document the review compared to what is allowed by Medicaid. The Board now proposes to also provide a 15-day grace period so that the providers are subject to the same due dates.

¹ 12 VAC 30-50-226

The proposed change is expected to allow more flexibility to the mental health providers licensed through the Board and serving Medicaid population as they will have more time to complete documentation of their reviews. The flexibility provided by this regulation could reduce compliance costs (e.g. possibly reducing the need for overtime pay for staff reviewing ISPs). Also, according to the Department of Behavioral Health and Developmental Services (DBHDS), non-compliance with this documentation requirement has resulted in citations during regular inspections. Therefore, a reduction in citations regarding timeliness of documentation of ISPs is expected.

The proposed amendment would not affect services received by those individuals with an ISP. Given the increased flexibility and reduction in citations for providers, and no adverse elements associated with the 15-day grace period, the proposal would likely produce a net benefit.

Businesses and Entities Affected

According to DBHDS, there are more than 100,000 individuals whose ISPs are reviewed on a regular basis by 3,313 licensed service providers most of which are likely small businesses.

Localities Particularly Affected

The proposed amendment does not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendment should not have any effect on total employment.

Effects on the Use and Value of Private Property

The proposed amendment is unlikely affect the use and value of private property.

Real Estate Development Costs

The proposed amendment does 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

The proposed amendment is expected to provide more flexibility in documentation of ISPs, and therefore could reduce compliance costs.

Alternative Method that Minimizes Adverse Impact

The proposed amendment does not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendment does not adversely affect businesses.

Localities:

The proposed amendment does not adversely affect localities.

Other Entities:

The proposed amendment 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 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.