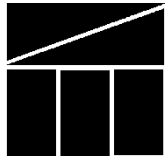


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes<sup>1</sup>  Not Needed

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

---

**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 / 8690**  
October 10, 2019

---

### Summary of the Proposed Amendments to Regulation

The State Board of Behavioral Health and Developmental Services (Board) proposes to allow case management providers a 30-day grace period and other mental health providers a 15-day grace period for documentation of Individualized Services Plans (ISP).

### Background

This action was originally started as a fast-track action.<sup>2</sup> After receiving public comments, the Board now proposes additional language through the standard regulatory process.

### Estimated Benefits and Costs

Currently, mental health providers serving Medicaid patients are allowed under Medicaid regulations<sup>3</sup> a 15-day grace period to document ISPs. In addition, as indicated by the public comments and agreed by the Board, Medicaid case managers are allowed a 30-day grace period,<sup>4</sup> allowing them an additional 15-day period to document ISPs. Case management providers need additional time to document ISPs because they evaluate input from other mental health

---

<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> See <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=8341>

<sup>3</sup> 12 VAC 30-50-226

<sup>4</sup> 12 VAC 30-60-143

providers. Having the same grace period as other providers would not allow them time to incorporate input from other mental health providers. The Board now proposes to align its regulations with Medicaid regulations by providing identical grace periods: a 30-day grace period for case managers and a 15-day grace period for other mental health providers.

The proposed change is expected to allow more flexibility to the mental health providers who are licensed through the Board and serve the Medicaid population because they will have more time to document 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 proposed grace periods, this action would likely produce a net benefit.

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

According to DBHDS, there are more than 100,000 individuals whose ISPs are reviewed on a regular basis by 1,100 licensed service providers most of which are likely small businesses.

### **Localities<sup>5</sup> Affected<sup>6</sup>**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

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

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

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

---

<sup>5</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>6</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

**Adverse Effect on Small Businesses<sup>7</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.

---

<sup>7</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.”