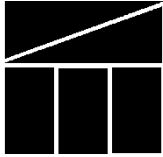


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes¹ Not Needed

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

22 VAC 30-100 Adult Protective Services
Department for Aging and Rehabilitative Services
Town Hall Action/Stage: 4880 / 8285
November 25, 2019

Summary of the Proposed Amendments to Regulation

The Department for Aging and Rehabilitative Services (DARS) proposes to incorporate the current policy on an alleged adult abuse, neglect, or exploitation perpetrator's right to review the actions taken by the local department of social services (LDSS) as well as to make clarifying changes to content that may be unclear, inconsistent, or obsolete.

Background

This regulation establishes standards for LDSS for the provision of Adult Protective Services (APS) investigations and post-investigation services.

Estimated Benefits and Costs

Currently, an alleged adult abuse, neglect, or exploitation perpetrator's right to review actions taken against him/her by LDSS are addressed in DARS policy manuals. However, the Attorney General has advised DARS to incorporate the current policy into the regulation. The right to review is a process by which the alleged perpetrator can contest an adverse disposition. Although, the right to review has existed in DARS policy manuals, DARS expects that inclusion of the process in the regulation would significantly improve compliance because the standards

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.

would be in a regulation that has the force of law rather than policy documents which do not. Consequently, promulgation of the right to review in regulation is anticipated to result in additional reviews and hence increased administrative costs for LDSS.

DARS estimates 427 right to reviews may be held annually pursuant to this regulation. It is estimated that a local APS worker would spend seven hours of staff time per review at \$36/hour to prepare for and conduct a right to review. It is also estimated that a local director would spend three additional hours per review at \$63/hour to conduct a right to review. If 427 reviews occur annually, statewide staff expenses would be \$188,368. Postage costs are estimated at \$5 per review for a total of \$2,135 bringing the total costs to \$190,503. Localities would fund \$29,528 (15.5%) of this amount and the rest, \$160,975 (84.5%) would be funded by the Department of Social Services.

On the other hand, this action confers a benefit by strengthening an individual's right to contest an adverse disposition and avoid the consequences that may follow such a finding, especially if the finding would be communicated to a licensing, regulatory, or legal authority. However, DARS cannot estimate the number of cases where an original disposition may be amended after the right to review process is invoked. Additionally, local departments of social services as well as the public would have ease of access to and clarity about the right to review, likely producing a more consistent application of this process throughout the state and conferring the other procedural benefits that result from promulgation of a regulation under the Administrative Process Act.

According to DARS, the remaining changes largely reflect and clarify practices already followed by LDSS, and they are therefore not expected to create any significant economic impact other than improving the clarity of the existing rules.

Businesses and Other Entities Affected

The proposed amendments to the regulation estimated to primarily affect 427 individuals who may invoke their right to review their dispositions.

Localities² Affected³

The proposed amendments should not affect any locality more than others. The proposed amendments are estimated to introduce \$29,528 in administrative costs for local departments to conduct 427 right to reviews annually.

Projected Impact on Employment

The proposed amendments would require 4,270 hours of staff time statewide annually to implement the right to review process.

Effects on the Use and Value of Private Property

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

Adverse Effect on Small Businesses⁴:

The proposed amendments do not appear to 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.

² “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.

³ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

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.”