22 VAC 40-293 – Locality Groupings
Department of Social Services
October 10, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Virginia Board of Social Services (board) proposes to establish criteria that localities must meet to change their Temporary Assistance for Needy Families (TANF) locality grouping.

Estimated Economic Impact

This proposed regulation establishes criteria for local departments of social services to change TANF locality groupings. In 1974 each Virginia locality was assigned a specific locality grouping, which determines payment levels for recipients of TANF in that locality. No mechanism was established to permit localities to change their locality grouping. Since differences in cost-of-living for localities have changed since 1974, it may be appropriate to alter the composition of locality groupings. Pursuant to Item 353.F of the 2002 Appropriation Act, the board proposes to establish criteria which localities must meet in order to have their request for a change in locality grouping be approved.

Some localities may wish to be reclassified into a higher TANF payment grouping in order to benefit its poorer citizens. Since TANF payments are fully funded by the federal and state governments, localities will encounter no additional direct funding cost for higher TANF payments to their residents. On the other hand, higher TANF payments may encourage some poorer individuals to move into the locality. Though localities do not contribute to TANF payments, local departments of social services do administer the payments. Thus, a greater number of TANF recipients will increase a locality's administrative costs. Also, the constituents of some localities may prefer not to encourage TANF recipients to move in. Due to the potential increase in administrative costs and desires to not encourage lower-income individuals to move in, the demand for reclassification into a higher grouping may be limited. The Department of Social Services (department) has reported that there has been little interest in grouping reclassification. Due to administrative cost concerns and perhaps a desire to not be a financial magnet for lower-income citizens, some localities may wish to be reclassified into a lower TANF payment grouping.

The board proposes that a request by a locality for a change in its locality grouping be approved if it meets specified conditions. For localities seeking to be reclassified into a locality grouping with lower TANF payment levels, one of the specified conditions is that "the data demonstrates that there is a disproportionate number of TANF recipients in the locality when compared to adjacent localities." A locality is deemed to have a disproportionate number of TANF recipients "if the proportion of TANF recipients to the general population is at least 20% higher in the petitioning locality than in the adjacent localities." Since TANF recipients make up only about 1% of Virginia's population, requiring that the percentage of a locality's population that are TANF recipients be at least 20% higher than the percentage of neighboring localities' populations that are TANF recipients is a prohibitively high criterion to meet. Thus, localities will very rarely, if ever, be permitted to move to a locality grouping with lower TANF payment levels if this proposed language is included in the regulation.

For localities seeking to be reclassified into a locality grouping with higher TANF payment levels, the board proposes to require that the fair market rent costs[1] in the petitioning locality be either 20% higher than at least one bordering locality in its locality grouping, or that fair market rent costs are the same for at least one bordering locality that is in a higher locality grouping. The

[1] The proposed regulation specifies that the most recent fair market rent data issued by the U.S. Department of Housing and Urban Development be used.

proposed language does not specify whether "the same" requires exactly equal dollar figures, or if very close but not exactly equal fair market rent figures would be considered "the same." The proposed language also seems to exclude from qualifying petitioning localities that have fair market rent costs higher than at least one bordering locality that is in a higher locality grouping, even though the logical argument for their qualifying is stronger than localities that have fair market rent costs that are the same as at least one bordering locality that is in a higher locality grouping.

The department is not aware of any locality that currently wishes to reclassify its grouping. Thus, in the near term, this proposed regulation will likely have no impact. Since the proposed criteria for switching to a grouping with lower TANF payment levels are highly prohibitive, it is unlikely that localities will reclassify downward in the near or long term. Since the proposed criteria for switching to a grouping with higher TANF payment levels can be feasibly met, some localities may reclassify upward in the long term. Lower-income residents of such localities would benefit by receiving larger TANF payments. By seeking reclassification, the localities would be indicating that the benefits of the higher payments outweigh the potentially higher administrative costs.

Rather than base approval of changes in TANF payments on differences between neighboring localities, perhaps it would be more appropriate to consider just the cost of living within localities. A straightforward methodology that classifies each locality based on its cost of living, for which an appropriate proxy might be the U.S. Department of Housing and Urban Development fair market data, could be used. Localities could be placed in one of three (or more) cost-of-living tiers, depending on where it ranks compared to other localities in the state. The TANF payment levels would be the same in each tier, as they are now within each grouping. A larger number of tiers would better tie the level of TANF payments to the local cost of living. For example, if there are only two tiers, then there will be a wide range of cost-of-living levels within each tier. If there are many tiers, then the same payment levels will only be given to localities that have similar costs of living.

Initially, these new cost-of-living tiers could be applied only to evaluate a payment tier change request from a locality. However, applying this methodology on a periodic basis to all the localities in the state and making appropriate payment adjustment within existing budget constraints may also be appropriate. This would help ensure that TANF payments are distributed in the most equitable manner possible.

Businesses and Entities Affected

This proposed regulation potentially affects the 76,416 TANF recipients in Virginia, as well as all Virginia localities.[2]

Localities Particularly Affected

All localities in Virginia are potentially affected by the proposed amendment.

Projected Impact on Employment

The proposed amendments will not significantly affect employment.

Effects on the Use and Value of Private Property

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

[2] Source: Department of Social Services