Economic Impact Analysis
Virginia Department of Planning and Budget

12 VAC 30-120 – Department of Medical Assistance Services
HIV/AIDS Waiver Services
September 3, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.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 proposed regulations will make available to the HIV/AIDS waiver recipients consumer-directed personal and respite care services in addition to the agency-directed services that are currently provided. Other proposed changes include conducting desk reviews for waiver eligibility, allowing agency-directed respite care to be provided in nursing homes or in long-term care facilities, reducing the frequency of registered nurse supervisory visits of the personal care aides, requiring that personal care aides be able to communicate effectively in English, and incorporating statutory background check (criminal record checks) requirements into the regulations.

Estimated Economic Impact

These regulations apply to services provided under the Medicaid HIV/AIDS waiver. Approximately 400 people receive case management, personal care, respite care, private duty nursing services and enteral nutrition products from this program. The most important proposed change is the provision of optional consumer-directed personal assistance and respite care

services to the waiver recipients in addition to the services directed by a provider agency. With the proposed changes, recipients (without a cognitive impairment) and a family member/caregiver (if a recipient has a cognitive impairment) will be able to hire personal assistants (except spouses and parents), will maintain time sheets for the personal assistants to be paid by the Department of Medical Assistance Services (the department), and will receive regular visits from a service facilitator for training and monitoring the plan of care. Since recipients will use optional consumer directed services in lieu of agency directed services only if it provides net benefits, a positive effect on recipients is expected.

In the traditional agency-directed service delivery model, the provider makes the key service decisions. Usually, the providers are regulated, licensed, and have contractual agreements with the public financing programs.[1] They also have the responsibility for and authority over their employees. In contrast, in the consumer-directed service delivery model, recipients have considerable choice and control over how services are provided and by whom, including hiring assistants, defining the duties, and deciding when and how specific tasks or services are performed. This model assumes that most supportive services are non-medical, low technology services that do not require extensive training or external monitoring.

Proponents of the consumer-directed model anticipate better outcomes because of expanded consumer choice and control in service delivery while the proponents of agency-directed model argue that professional supervision is necessary for quality assurance. The comparison of the two service delivery models with respect to client and worker outcomes have been the subject of extensive research. Most of the available evidence from aged and disabled populations suggest that consumer-directed services produce at least as good outcomes on several key measures of client satisfaction, empowerment, and quality of life as those from the agency-directed service delivery, if not better.[2] Although these studies do not indicate whether

[1] Doty, et al., 1999, "In-home Supportive Services for the Elderly and Disabled: A comparison of Client-directed and Professional Management Models of Service Delivery, U.S. Department of Health and Human Services.

[2] Tilly and Wiener, 2001, "Consumer-directed Home and Community Services: Policy Issues," Occasional Paper No. 44, Urban Institute.

Foster, et al., 2003, "Does Consumer Direction Affect Quality of Medicaid Personal Assistance in Arkansas?" Mathematica Policy Research, Inc.

Caldwell and Teller, 2003, "Management of Respite and Personal Assistance Services in a Consumer-directed Family Support Programme," Journal of Intellectual Disability Research, vol. 47, pp. 352-366.

Doty, et al., 1996, "Consumer-directed Models of Personal Care: Lessons from Medicaid," The Milbank Quarterly, vol. 74:3, pp. 377-409.

the consumer-directed services are provided on an optional or mandatory basis, making these services available on an optional basis, as proposed, is a significant assurance for positive outcomes.

Another question is whether the consumer-directed model of service delivery will improve access of recipients to personal assistance and respite care services. It is almost certain that the availability of consumer-directed services will improve access. First, the recipients will have access to resources the agency providers may not have. Recipients will be allowed to hire relatives and friends they know who may not be willing to work for an agency provider. There is ample evidence indicating that most recipients tend to hire relatives or friends.[3] Second, recipients will have an additional option to arrange for a more flexible work schedule or for a backup care with relatives, friends, or neighbors if a provider cannot meet their special needs. Third, recipients will be able to find more assistants who are not afraid of providing services to an individual with HIV/AIDS in addition to those available from an agency provider. Given the significant shortage of front line workers,[4] the proposed changes will provide greater access to these services.

The most uncertain effect of the provision of these services is on fiscal costs. There is some support suggesting that consumer-directed care may be less expensive than the agency-directed care, perhaps, because of the elimination of providers' administrative overhead costs and/or employee benefits.[5] Under this program, reimbursement for consumer directed services is about 30% - 38% lower than the reimbursement for agency-directed services. This suggests a reduction in the program costs for the same amount of services provided. On the other hand, if the proposed changes increase utilization of these services or public payment provides incentives to currently unpaid caregiving relatives to request payment, an increase in expenditures under this program would result. In short, the net fiscal effect of this change is not known at this time.

Beatty, et al., 1998, "Personal Assistance for People with Physical Disabilities: Consumer-direction and Satisfaction with Services," Archives of Physical Medicine and Rehabilitation, vol. 79, pp. 674-677.

Prince, et al., 1995, "Self-managed Versus Agency-provided Personal Assistance Care for Individuals with High Level Tetraplegia," Archives of Physical Medicine and Rehabilitation, vol. 76, pp. 919-923.

Benjamin, et al., 2000, "Comparing Consumer-directed and Agency Models for Providing Supportive Services at Home," Health Services Research, vol. 35:1, pp. 351-366.

[3] (Caldwell, 2003), (Doty, 1996)

[4] Source: The Department of Medical Assistance Services and Benjamin, 2001, "Consumer Directed Services at Home: A new Model for Persons with Disabilities," Health Affairs, vol. 20:6, pp. 80-95.

[5] (Prince, 1995), (Benjamin, 2000), (Benjamin, 2001), (Tilly and Wiener, 2001)

Pursuant to a requirement by the Centers for Medicare and Medicaid, the department also proposes to conduct desk reviews for waiver eligibility. While this requirement will likely consume some staff time, the department does not plan to hire additional staff, but plans to absorb the required staff time with the currently available resources. It is likely that this function will help the department to reduce potential abuse.

Another proposed change will allow provision of agency-directed respite care in nursing homes or in long-term care facilities. This could potentially cause an increase in the hours of respite care provided under this waiver, but it is anticipated that only a few recipients will receive this service in a facility since a lot of nursing homes do not set aside beds for this purpose.

The other significant proposed changes include reducing the required frequency of visits by a supervisor from 30 days to up to 90 days for recipients who do not have a cognitive impairment and requiring that aides be able to communicate effectively in English. Although in the opposite directions, both of these changes could affect the compliance costs and welfare of clients, but the significance of these potential effects are not known.

Finally, pursuant to the Code of Virginia, the department proposes to incorporate in the regulations the statutory requirement for criminal background checks for all compensated employees of personal care and respite care agencies.[6] The main purpose of the background check requirement for these employees is to reduce potential risk of harm and exploitation to recipients. The rationale is that persons with certain criminal convictions are more likely to harm clients than other persons without such backgrounds, and background checks would probably increase protection of the recipients. Although the objective of background checks is clear, there is no available study assessing potential risks. Thus, the significance and types of risks that may be present, as well as the success of background checks in reducing potential risks, are not well known. Other likely economic effects of this change are possible termination of some of the employees and a higher turnover rate, and an increase in provider costs because of the background check costs. However, since this change is a mere incorporation of the statutory requirements that have been already enforced in practice, no significant economic effect is expected upon promulgation.

[6] §37.1-183.3 of the Code of Virginia.

Businesses and Entities Affected

The proposed regulations apply to Medicaid HIV/AIDS waiver that serves approximately 400 recipients.

Localities Particularly Affected

The proposed regulations are not expected affect any locality more than others.

Projected Impact on Employment

The proposed addition of consumer-directed personal and respite care services is anticipated to expand the available pool of assistants for the recipients. It is found that recipients using this option tend to hire relatives and friends. There is also increased probability that public payment may cause some previously unpaid assistants to request compensation. Thus, it seems that the proposed changes would increase the demand for labor.

Effects on the Use and Value of Private Property

Unless the proposed changes significantly decrease the demand for agency-directed services and affect their businesses, no significant effect on the use and value of property is anticipated.