



## Economic Impact Analysis Virginia Department of Planning and Budget

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### 22 VAC 40-745 – Department of Social Services

#### Assessment in Adult Care Residences

December 23, 2003

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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

§63.2-1732 of the Code of Virginia provides the State Board of Social Services with the authority to adopt and enforce regulations required to carry out provisions of Chapter 17 (Licensure and Registration Procedures) of Title 63.2 of the Code of Virginia and to protect the health, safety, welfare, and individual rights of residents of assisted living facilities and promote their highest level of functioning.

The proposed regulation (1) requires all assessors to have completed a state-approved training course on the state-designed uniform assessment instrument (UAI), (2) requires that each community services board be responsible for the assessment and reassessment of its clients for placement in an assisted living facility (ALF), (3) restricts when *public pay individuals*<sup>1</sup> can be placed in an ALF under emergency placement to cases when the emergency is documented

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<sup>1</sup> Residents of an assisted living facility eligible for benefits under the Auxiliary Grants Program

and approved by a Virginia adult protective services worker, (4) requires ALFs to notify the local department of social services of the discharge or death of a resident within 10 days, (5) allows the local department of social services staff to initiate a change in the level of care for any ALF resident during an inspection or review when it is determined that the UAI is not reflective of the resident's current status, and (6) specifies who are considered qualified assessors for the purposes of the initial evaluation and who are considered qualified assessors for all subsequent evaluations for both public pay and private pay individuals.

The regulation also proposes a number of changes in order to make the regulation consistent with the Code of Virginia (such as replacing the phrase "adult care residence" with the phrase "assisted living facility") and with the Department of Medical Assistance Services' policy (such as modifying the definition of assisted living to include only regular assisted living and not intensive assisted living as in the existing regulation).

The proposed regulation also includes clarifying language and definitions, removes redundant language, and reorganizes parts of the existing regulation for clarity.

## **Estimated Economic Impact**

(1) The proposed regulation requires all assessors to have completed a state-approved training course on the UAI. Assessors from the various public human services agencies who have been routinely completing UAIs for applicants to and residents of ALFs prior to January 1, 2004 will not be required to meet the training requirement. The existing regulation does not include any training requirements for assessors. DSS believes that it is in the best interest of the assessors and residents to require this training.

The Department of Social Services (DSS) does not believe that the proposed change will have a significant impact. All DSS assessors have been required to take the UAI training course since 1996, when the regulation was promulgated (DSS assessors account for 85% of all assessments). Moreover, DSS believes that most non-DSS assessors voluntarily choose to take the course even though they are not required to do so under the existing regulation.

The proposed change is likely to affect assessors at the various ALFs who have not voluntarily chosen to take the training course and all non-DSS assessors (at human services

agencies and ALFs) who begin operating after January 1, 2004 and who would not otherwise have chosen to attend the training.

The UAI training is provided at no cost to the assessors. DSS currently contracts with Virginia Commonwealth University (VCU) to run UAI training programs across the state. According to DSS, VCU will continue to provide the required training to any additional assessors at no extra cost. While the training itself will be provided at no additional cost to the individuals or the state, the training requirement is likely to impose some economic costs. According to DSS, it takes 2-3 days for individuals to be trained in the UAI for public pay individuals and half a day to be trained in the UAI for private pay individuals. This includes time that would have otherwise been used for regular work-related activities. By diverting time away from regular work responsibilities, the proposed change is likely to result in a loss of productivity and impose some economic costs. The proposed change is also likely to impose additional travel-related costs. Even though VCU currently operates five training centers across the state, costs related to traveling to and from the training centers and to any overnight stays will add to the economic cost associated with the proposed change. It is not possible to precisely estimate the magnitude of these costs. In order to arrive at a precise estimate, it would be necessary to know the number of additional assessors expected to attend the training, the fraction of these assessors attending the UAI training for private pay individuals versus the number attending the UAI training for public pay individuals, and the geographic proximity of each individual to a training center.

The proposed regulation may also produce some economic benefits. By requiring assessors to have state-approved training in the UAI, the proposed change may better ensure that appropriate level of care is assigned to applicants to and residents of ALFs. Apart from any potential public health benefits accruing from individuals being assigned the right level of care, the proposed change may also result in a more efficient allocation of resources. For example, to the extent that the proposed change reduces the number of public pay individuals being assigned an inappropriate level of care, the proposed change will lead to a more efficient and well-targeted allocation of state resources. However, there are no studies or data currently available indicating the impact of the state-approved training on the performance of assessors.

The net economic impact of the proposed change will depend on whether the additional costs imposed by the regulation in terms of lost productivity and travel-related costs are greater than or less than any potential benefits of having assessors take state-approved UAI training. Due to a lack of data, it is not possible to estimate the precise economic impact of the proposed change at this time.

(2) The proposed regulation requires that each community services board (CSB) be responsible for the assessment and reassessment of its clients for placement in an ALF. CSBs are responsible for monitoring individuals with mental health and mental retardation issues and fall under the Department of Mental Health, Mental Retardation, and Substance Abuse (DMHM RSA). The existing regulation does not require CSBs to assess their clients for ALF placement. Currently, only some CSBs carry out ALF assessment on their clients. Due to cost and staffing issues, others choose not to conduct these assessments. Under these circumstances, DSS (the assessor of last resort) is required to step in and conduct the ALF assessment. DSS believes that it is in the best interest of individuals with mental health and mental retardation issues to be assessed by CSB assessors rather than DSS assessors.

The proposed change is likely to shift the cost of conducting an assessment or reassessment for individuals with mental health and mental retardation issues from DSS to the local CSBs. Local CSBs are supported by the state (through DMHM RSA) and by the local government. According to DSS, approximately 5% (and no more than 10%) of DSS cases will be shifted to CSBs because of the proposed change. In fiscal year 2001, there were approximately 1,300 full ALF assessments performed in Virginia. Of these, 85% or 1,100 were conducted by DSS. Based on these numbers, approximately 55 (and no more than 110) cases are likely to be shifted from DSS to the local CSBs. The Department of Medical Assistance Services (DMAS) reimburses \$100 towards the cost of each assessment. Any costs incurred over and above \$100 per assessment will have to be met by the CSB, and hence by DMHM RSA and the relevant local authorities.

The proposed change could produce some economic benefits. According to DSS, CSB assessors are more qualified and in a better position to evaluate individuals with mental health and/or mental retardation issues for ALF placement than are DSS assessors. By better ensuring that individuals with mental health and mental retardation issues are assigned the appropriate

level of care, the proposed change could produce some public health benefits and lead to a more efficient allocation of resources. However, there is no data available at this time to indicate that CSB assessors perform better than DSS assessors in the placement of individuals with mental health and mental retardation issues.

The proposed change could have a small net positive economic impact. The transfer of costs from DSS to the local CSBs will not have a net economic impact on Virginia. To the extent that the proposed change will better ensure that individuals with mental health and mental retardation issues are assigned the appropriate level of care, the proposed regulation could produce some economic benefits. However, the effectiveness of CSB assessors compared to DSS assessors in placing mentally challenged individuals is not known.

(3) The proposed regulation restricts when public pay individuals can be placed in an ALF under emergency placement to cases when the emergency is documented and approved by a Virginia adult protective services worker. Under existing policy, the emergency could be documented and approved by an adult protective services worker or a case manager. According to DSS, language providing for case managers to approve emergency placements is being removed due to the difficulty in identifying and training case managers (case managers work at various human services agencies, at both the state and local level). Moreover, according to DSS, there have been very few instances of case managers approving emergency placements in the past few years.

The proposed change is not likely to have a significant economic impact. Based on information provided by DSS, there have been very few instances of a case manager approving emergency placement. Moreover, as long as the emergency is documented and approved by an adult protective services worker, individuals will still be able to avail of emergency placement at little or no additional cost.

(4) The proposed regulation requires ALFs to notify the local department of social services of the discharge or death of a resident within 10 days (notification can be in writing or by phone). Under the existing regulation, ALFs were only required to inform the local department of social services of the date of discharge (defined as the process that ends an individual's stay in an ALF) of a resident, but not within any specific time period. According to DSS, the proposed change is intended to ensure that ALFs report all deaths and discharges in a

timely manner in order to prevent facilities from continuing to receive state checks even after the resident has been discharged or has died. DSS is aware of at least a couple of instances when an ALF has continued to receive state funds even after the resident has died or been discharged.

The proposed change is not likely to have a significant economic impact. The notification requirement is not likely to impose any significant additional costs on ALFs. Moreover, to the extent that the proposed change reduces the number of instances of facilities continuing to receive state funds after the resident has died or been discharged, it is likely to provide for better enforcement of the existing regulation and produce some economic benefits.

(5) The proposed regulation allows staff from the local department of social services to initiate a change in the level of care for any ALF resident during an inspection or review when it is determined that the UAI is not reflective of the resident's current status. Under current policy, DMAS staff are allowed conduct routine utilization reviews to determine whether residents are at the appropriate level of care, and DSS licensing staff are allowed to review a sample of residents during the course of their inspections. The proposed change will allow DSS staff to initiate a change in level of care during any inspection or review.

The proposed change is not likely to have a significant economic impact. To the extent that it better ensures that individuals are placed at the appropriate level of care, it is likely to produce some public health benefits and lead to a more efficient allocation of resources.

(6) The proposed regulation specifies who are considered qualified assessors for the purposes of the initial evaluation and who are considered qualified assessors for all subsequent evaluations, for both public pay and private pay individuals. For the initial evaluation, the list is expanded to include the Department of Corrections (DOC) community release units. The change is intended to make ALF placements easier for inmates being released from prison. According to DSS, some localities have been unwilling to go into correctional facilities to assess inmates. Thus, corrections staff have been trained in the use of UAI. For any subsequent evaluations, the list of qualified assessors excludes DMHM RSA, DOC, and acute care hospitals as individuals have usually left the care of these agencies and facilities by the time follow-up assessments are done.

The proposed change is not likely to have a significant economic impact. There are not likely to be any significant additional costs associated with training DOC personnel. According

to DSS, corrections staff have been trained in the use of the UAI. Any additional costs are likely to be counter-balanced by the cost savings of having assessors within these facility conduct the assessment.

The remaining changes being proposed, such as changes that make the regulation consistent with the Code of Virginia and DMAS policy, the deletion of redundant language and the addition of clarifying language, and the reorganization of various sections are not likely to have a significant economic impact. To the extent that these changes improve the understanding and implementation of the regulation, they are likely to produce some economic benefits.

### **Businesses and Entities Affected**

The proposed regulation is likely to affect assessors, assisted living facilities, and applicants to and residents of assisted living facilities. *Assessors* at the various ALFs who have not voluntarily chosen to take the training course and all non-DSS assessors (at human services agencies and ALFs) who begin operating after January 1, 2004 will now be required to attend state-approved training in the UAI. CSB assessors, rather than DSS assessors, will be responsible for the assessment and reassessment of its clients for placement in an ALF. Staff from the local department of social services will be authorized to initiate a change in the level of care for any ALF resident during an inspection or review. DOC community release units will now be allowed to conduct the assessment and placement of inmates being released from prison. *Assisted living facilities* will be required to notify the local department of social services of the discharge or death of a resident within 10 days. *Public pay individuals* seeking emergency placement will be required to have the emergency documented and approved by a Virginia adult protective services worker.

According to DSS, there are approximately 675 assisted living facilities, close to 10,270 auxiliary grant residents in assisted living facilities, and 120 local departments of social services. In FY 2001, approximately 1,100 assisted living full assessments (or 85% of all full assessments) and 10,000 assisted living short assessments were conducted by the local social services departments.

### **Localities Particularly Affected**

The proposed regulation is likely to affect all localities in the Commonwealth.

## **Projected Impact on Employment**

The proposed regulation is not likely to have a significant impact on employment.

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

The proposed regulation is not likely to have a significant impact on the use and value of private property.