



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 30-80 – Methods and Standards for Establishing Payment Rate; Other Types of Care

Department of Medical Assistance Services

February 2, 2011

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 874 of the 2010 Acts of Assembly, Items 297 UUU and WWW, the proposed regulations amend the reimbursement rates for durable medical equipment and reduce the service authorization limit for incontinence supplies. These two changes have been already in effect since July 1, 2010 under emergency regulations. The proposed regulations will also discontinue the Nutritional Status Evaluation Form, clarify that specific fields on the Certificate of Medical Necessity must be completed for coverage and that providers are not permitted to bill for dates of service prior to delivery of the DME, add coverage of enteral nutrition products in Chapter 50 of the regulations for clarity, clarify that recovery of delivered durable medical equipment by providers is prohibited, and clarify that routine use of diapers for children is not covered.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Item 306.OOO of the 2009 Appropriation Act directed DMAS to examine the methodology for reimbursing durable medical equipment and to report findings by November 1, 2009, including the specific strategies recommended to effectuate savings. As required, DMAS submitted a report to the Senate Finance and House Appropriation Committees. The savings recommendations DMAS proposed relied heavily on the study conducted by CGI Technologies Solutions, Inc. Consequently, Chapter 874 of the 2010 Acts of Assembly, Item 297 UUU

directed DMAS to modify the reimbursement rates for durable medical equipment as recommended.

There are three categories of DME that DMAS relies on for reimbursement purposes. The DMEs in the first category have a published national Durable Medical Equipment Regional Carrier (DMERC) rate which is utilized by Medicare. Prior to the emergency regulations, DMERC rate was the reimbursement rate utilized. The DMEs in the second category do not have a DMERC rate, but have a DMAS rate that was established in 1996 which has not been changed since. The reimbursement rate for this category was the lower of the 1996 DMAS rate or the provider's actual charge. The third category includes any other DMEs that are not included in the first or the second category. The reimbursement rate on these DMEs was the provider's usual and customary charge.

The proposed regulations reduce the reimbursement rate for the first category by 10% to 90% of the DMERC rate, reduce the 1996 DMAS rate schedule by 5.5%, and reimburse the third category at the provider's net cost, minus shipping and handling, plus a 30% markup. These changes are expected to generate \$3,832,075 in total savings. One half of this amount represents savings to the Commonwealth while the rest represents savings to the federal government. On the other hand, this change will reduce the profits of DME providers by the same amount. In fiscal year 2010, total DME expenditures were about \$52 million.

Based on the DMAS 2009 CGI Technologies Solutions' report, the proposed rate changes will make Virginia's reimbursement rates more closely aligned with the rates of other comparable states' Medicaid programs' DME rates. Thus, DMAS does not expect a negative impact on services and recipients since the Commonwealth's rates have been historically higher than most other state Medicaid agencies.

In addition, pursuant to Chapter 874 of the 2010 Acts of Assembly, Item 297 WWW, the proposed regulations reduce the prior service authorization limit on incontinence supplies (diapers/pull-ups/liners) from 2 – 3 cases (depending on the product) to 100 individual units. According to DMAS, prior to the emergency regulations the prior authorization limits were too high and often resulted in overage of incontinence supplies. In fact, DMAS has not seen a significant increase in the service authorization requests since July 2010 when the reduced limit became effective under emergency regulations indicating that the lower limit is sufficient to

cover the needs of the recipients. Thus, no negative effect of this service reduction on the recipients is expected. However, the proposed regulations are expected to reduce the overage and provide \$2,847,434 in total savings. Similar to the previous change, one half of this amount represents savings to the Commonwealth while the rest represents savings to the federal government. On the other hand, this change will reduce the revenues of DME providers by the same amount. In fiscal year 2010, DMAS reimbursed approximately 250 suppliers \$15.3 million for incontinence undergarments.

The proposed reductions in the reimbursement rates and the service authorization limits are expected to generate approximately \$6.6 million in total savings. Since the federal government provides matching funds for Medicaid, these proposed changes will reduce the influx of federal funds into the Commonwealth by approximately \$3.3 million. A reduction in the federal funds coming into the Commonwealth is expected to have a negative impact on the state's economy.

The proposed changes will also discontinue the use of Nutritional Status Evaluation Form. According to DMAS, the information contained on this form can now be included on the Certificate of Medical Necessity. In fiscal year 2010, there were 2,260 recipients for whom 173 providers were completing the evaluation form. Thus, this change is expected to provide some administrative cost savings to the providers and DMAS.

The remaining proposed changes will clarify that specific fields on the Certificate of Medical Necessity must be completed for coverage and that providers are not permitted to bill for dates of service prior to delivery of the DME, add coverage of enteral nutrition products in Chapter 50 of the regulations for clarity, clarify that recovery of delivered durable medical equipment by providers is prohibited, and clarify that routine use of diapers for children is not covered. None of these changes are expected to have a significant economic impact other than improving the clarity of the regulations and reducing the potential costs due to misunderstandings.

Businesses and Entities Affected

The proposed regulations will primarily affect 1,958 DME providers.

Localities Particularly Affected

The proposed regulations do not affect any locality more than others.

Projected Impact on Employment

The proposed regulations will reduce the reimbursement rates for DME and service authorization for incontinence supplies which in turn may reduce profits of providers. Some providers may reduce their demand for labor in response.

Effects on the Use and Value of Private Property

The proposed regulations do not have a direct impact on the use and value of private property. The proposed reduction in DME reimbursement rates and service authorization for incontinence supplies may reduce the profitability of affected providers and reduce their asset values.

Small Businesses: Costs and Other Effects

While there is no reliable data, majority of the affected providers are believed to be small businesses. The costs and other effects of proposed regulations on small businesses are the same as discussed above.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There is no known alternative method that minimizes adverse impact on small businesses while accomplishing the same goals.

Real Estate Development Costs

No effect on real estate development costs is expected.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 107 (09). Section 2.2-4007.H 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.