Economic Impact Analysis
Virginia Department of Planning and Budget

1 VAC 55-20 – Commonwealth of Virginia Health Benefits Program

Department of Human Resource Management

January 23, 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 General Assembly mandates in §2.2-2818 of the Code of Virginia that the Department of Human Resource Management (DHRM) establish a plan for providing health benefits to state employees. §2.2-1204 of the Code of Virginia authorizes DHRM to establish a plan for providing health benefits to employees of local municipalities.

The regulation proposes to (1) reduce the minimum number of hours per week that state employees have to work in order to be eligible for the health benefits from 40 hours per week to 32 hours per week, (2) change the way state health benefits plans handle the discovery of an employee or other plan participant who was ineligible for coverage, (3) add language that prevents employees of the state residing in another country and eligible for health coverage in that country from claiming state health benefits, and (4) reduce the maximum period for which an employee who is reinstated can claim retroactive health benefits from 90 days to 60 days.

The proposed regulation also makes changes to the existing regulation in order to bring it into compliance with legislation passed at the state and federal level. The regulation also includes housekeeping changes that make it more consistent with current practice.

Estimated Economic Impact

(1) The proposed regulation reduces the minimum number of hours per week that state employees have to work in order to be eligible for health benefits from 40 hours per week to 32 hours per week. In the current budget environment, many state agencies are cutting back on staff, by laying off employees and/or reducing the number of hours worked by them. Either because of the experience and expertise that employees have accumulated on the job or because of the likelihood of having to hire and retrain staff down the road once the budget situation improves, agencies often prefer reducing the number of hours worked by employees to laying them off. By providing full health benefits at a lower number of hours worked per week, the proposed change is intended to help state agencies retain employees who otherwise might have chosen to seek employment elsewhere rather than work the reduced hours.

Employee compensation consists of two parts: wages and benefits (including health benefits). Under current policy, reducing the number of hours worked to below 40 hours per week would save agencies wage and benefits costs. Under the proposed regulation, reducing the number of hours worked to below 40 hours per week will save agencies wage costs, but not health benefits costs.

The short-term impact of the proposed change will be to raise the average hourly compensation of employees. While the hourly wages remain unchanged, employees will now receive higher hourly benefits, i.e., employees will receive the same health benefits they received at 40 hours per week despite the fact that they are working only 32 hours per week. Thus, the proposed change will reduce the cost saving to the state from reducing the number of hours worked. On the other hand, the proposed change will have the benefit of helping the state retain employees whose expertise and experience is considered valuable or of saving the state hiring and retraining costs down the road. Agencies will choose to reduce the hours worked by their employees rather than laying them off only if the cost of providing higher hourly compensation is outweighed by the benefit of retaining employees who might have chosen to leave state employment.

The proposed regulation could also have an unintended long-term impact. The long-term impact will depend on whether all employees working reduced hours return to working at least 40 hours per week. If all employees working the reduced hours return to working at least 40 hours per week, the average hourly compensation will return to its current level. However, if some employees voluntarily choose to work the shorter hours now that they can retain their health benefits, hourly compensation will remain higher than the current level in the long-term. Agencies will choose to allow employees to work less than 40 hours a week only if the costs of paying a higher hourly compensation rate are outweighed by the benefits (in terms of attracting and retaining employees) of providing state employees with the additional flexibility.

Thus, the proposed change is likely to affect the contract entered into by the state and its employees in the short-term and in the long-term. It will give state agencies and state employees additional flexibility to negotiate the terms of the contract between them. However, while the proposed change affects the contracting agreement between the state and its employees, it is not likely to have a significant economic impact on the Commonwealth as a whole.

(2) The proposed regulation changes the way state health benefits plans handle the discovery of an employee or other plan participant who was ineligible for coverage. Under current policy, if an employee has an ineligible dependent on their plan, the employee is reimbursed in the amount of the overpaid premium over the past six months. However, the employee is then required to pay the higher premium (even though the dependent is no longer covered) until open enrollment or a qualifying midyear event when they can remove the ineligible dependent. Thus, the current policy is inconsistent. While an employee who has not removed an ineligible dependent from their plan is refunded the amount of the overpaid premium, the employee is then penalized going forward by having to pay the higher premium until they can next make changes to their health plan. The proposed change is intended to make the regulation more consistent. It removes the requirement that the state health benefits plans reimburse employees for the amount of the overpaid premium over the past six months.

The change is not likely to have a significant economic impact. To the extent that it makes the regulation more consistent, it will have a small positive economic impact. However, to the extent it increases the penalty on state employees for having ineligible persons on the plan, it is likely to have a small negative economic impact. DHRM estimates that between 30 and 60 employees and retirees per year are found to have ineligible persons on their health plan.

(3) The proposed regulation prevents employees of the state residing in another country and eligible for health coverage in that country from claiming state health benefits. Thus, in effect, the proposed change will lower the compensation package (wages and benefits) provided by the state to such employees from existing levels. However, to the extent that these employees can substitute health benefits provided by the foreign country for Virginia health benefits, they will be no worse off than they are at present. Currently, such a situation would arise only in relation to the Virginia Commonwealth University School of Arts in Qatar (VCU-Qatar) if a Qatari national employed by VCU-Qatar claims health benefits Virginia health benefits plans. To date, there have been no claims that would fall into this category. According to DHRM, this change is being proposed to make the regulation consistent with common practice regarding the provision of health benefits to foreign nationals.

The net economic impact of the proposed change is not likely to be significant. The proposed change will affect the contract entered into by the state and the foreign nationals it employs that live and work outside the United States. The state will save on benefits costs. However, the change might have negative consequences in terms of the quality of employees the state will attract at the lower compensation rate.

(4) The proposed regulation reduces the maximum period for which an employee who is reinstated can claim retroactive health benefits from 90 days to 60 days. Under current policy, employees who are reinstated with back pay (following suspension or termination) can have their health benefits reinstated up to a maximum of 90 days. The proposed regulation reduces the maximum period for which health benefits can be reinstated to 60 days. The change is being proposed to make the regulation consistent with the current contractual provisions of the state's HMO contracts.

The proposed change is not likely to have a significant economic impact. It is likely to have a small positive economic impact by making the regulation more consistent and improving implementation. However, it also likely to have a small negative economic impact by reducing the maximum period for which a reinstated employee can claim retroactive health benefits.

The proposed regulation also makes several changes mandated by law: by the Code of Virginia and by the United States Code.

At the state level, the Code of Virginia now requires that: the Department of Personnel and Training be renamed the Department of Human Resource Management, the State Employee

Health Benefits Program incorporate an independent medical review program, active coverage for surviving spouses of employees be extended for one month following the employee's death, the authority of the Health Benefits Advisory Council and the Local Advisory Council be removed and the Human Resource Council be established, and Medical College of Virginia (MCV) be established as an authority, making MCV employees ineligible for state health benefits plans.

At the federal level, the United States Code now requires that: state health benefits plans no longer discriminate between individuals based on their health status (states are no longer allowed to have any pre-existing condition or evidence of insurability provisions in their regulations), all plan participants make changes to their state health benefits plans on a prospective basis rather than a rolling basis, state health benefits plans change the way coverage effective days are set, and state health benefits plans send out a certificate of creditable coverage to all plan participants who terminate coverage.

These changes are not likely to change current practice as they have been in effect for the past several years and are not likely to have a significant economic impact on Virginia.

The regulation also proposes several changes intended to make the regulation more consistent with current practice such as introducing language in the regulation allowing for web-based enrollment, adding language pertaining to the Virginia Sickness and Disability Program and the Long-Term Disability Program (both programs were not offered prior to January 2000), increasing the age that children who are not full-time students can be covered by their parents' plans from 19 to 23, and updating the section dealing with coordination of benefits to the latest version as it appears in the employees' handbook.

These changes are not likely to have a significant economic impact. In fact, to the extent that these changes improve understanding and implementation of the regulation, they are likely to have a small positive economic impact.

Businesses and Entities Affected

The proposed regulation will affect all state employees eligible for state health benefits.

Localities Particularly Affected

The proposed regulation will affect all localities participating in the local choice program and providing health benefit coverage for their employees through the state health benefits plan.

Projected Impact on Employment

The proposed regulation will allow some state employees to work reduced hours while still retaining their health benefits. In the short-term, the proposed change is likely to help state agencies retain employees who otherwise might have chosen to seek employment elsewhere rather than work the reduced hours. Thus, the proposed regulation might reduce the number of state employees who are laid off or choose to leave state employment. In the long-term, allowing employees to work reduced hours with full health benefits might lead to some employees voluntarily choosing to work shorter hours. This could result in the state hiring more people in order to make up for the shorter hours worked by some employees.

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.