

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**22 VAC 30-80 Auxiliary Grants Program**  
**Department for Aging and Rehabilitative Services**  
**Town Hall Action/Stage: 4408/7469**  
July 20, 2016

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to Chapters 128 and 387 of the 2012 Acts of Assembly, the Department for Aging and Rehabilitative Services proposes to allow assisted living facilities and adult foster care homes to accept payments from third parties for certain goods and services provided to Auxiliary Grants recipients.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

This regulation contains rules for Auxiliary Grants Program (AG). An AG is an income supplement for individuals who receive Supplemental Security Income and certain other aged, blind, or disabled individuals who reside in a licensed assisted living facility (ALF) or an approved adult foster care home (AFCH). AG is the primary state funding available for assisted living for low-income individuals in Virginia.

House Joint Resolution 580 of the 2011 General Assembly directed the Joint Legislative Audit and Review Commission (JLARC) to study third-party payments for assisted living

services.<sup>1</sup> JLARC studied the issue and among other things found that the AG rate was well below Virginia's market prices for assisted living causing ALFs to stop accepting any AG recipients or accepting only highly-functioning individuals.<sup>2</sup> In order to help address the issue, JLARC made a number of recommendations and noted that payments to ALFs by third parties would have limited impact because fewer than ten percent of AG recipients have such support. Consistent with the JLARC recommendations, Chapters 128 and 387 of the 2012 Acts of Assembly<sup>3</sup> allowed ALFs and AFCHs to accept payments from third parties for certain goods and services provided to AG recipients; prohibited counting of these payments as income for purposes of determining eligibility for or calculating the amount of the AG; restricted third-party payments to items other than food and shelter; and required documentation of such payments. The proposed changes update the regulation to conform to the statutory changes.

The main economic effects of allowing facilities to accept third-party payments include helping facilities to provide goods and services recipients want or need (e.g. supplemental incontinence supplies) and the administrative costs of managing and documenting such payments. It should be noted that the facilities have the option but not the obligation to accept such payments. By choosing to accept such payments they reveal that expected benefits to them exceed anticipated costs. Also, facilities have already been allowed to accept third-party payments since 2012 under the statute. Thus, no significant economic impact is expected upon promulgation of the proposed regulation. The proposed changes are beneficial in that they will update the regulation to conform to the statutory changes.

### **Businesses and Entities Affected**

Currently, there are 281 ALFs and 48 AFCHs accepting AG residents. In fiscal year 2015, the average AG caseload was 4,368.

### **Localities Particularly Affected**

The proposed changes apply statewide.

### **Projected Impact on Employment**

No impact on employment is expected.

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<sup>1</sup> <http://leg1.state.va.us/cgi-bin/legp504.exe?111+ful+HJ580ER>

<sup>2</sup> <http://jlarc.virginia.gov/pdfs/reports/Rpt426.pdf>

<sup>3</sup> <http://leg1.state.va.us/cgi-bin/legp504.exe?121+ful+CHAP0128> & <http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+CHAP0387>

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

No impact on the use and value of private property is expected.

**Real Estate Development Costs**

No impact on real estate development costs is expected.

**Small Businesses:****Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

**Costs and Other Effects**

The majority of ALF and AFCH providers that accept AG residents are small businesses. The costs and other effects on them are the same as above.

**Alternative Method that Minimizes Adverse Impact**

No adverse impact on small businesses is expected.

**Adverse Impacts:****Businesses:**

The proposed amendments do not have an adverse impact on non-small businesses.

**Localities:**

The proposed amendments will not adversely affect localities.

**Other Entities:**

The proposed amendments will not adversely affect other entities.

**Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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