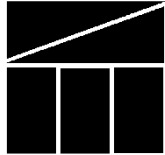


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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**

22 VAC 40-661 Child Care Program
Department of Social Services
Town Hall Action/Stage: 4493/7736
July 31, 2017

Summary of the Proposed Amendments to Regulation

Pursuant to the 2014 reauthorization of the federal Child Care and Development Block Grant Act (CCDBG), the State Board of Social Services (Board) proposes to 1) establish a twelve-month presumptive eligibility period, 2) require on-site inspection of all providers receiving subsidies, 3) require health and safety training of provider staff, 4) require first aid and CPR certification, 5) establish provider-to-child ratios and group size limits, 6) establish a gradual phase-out of the program when income eligibility is lost, 7) expedite the entry of children experiencing homelessness into the program, 8) start the beginning date of service payment to correspond with the application approval date, 9) no longer allow out-of-state providers to participate in the program, 10) allow administrative disqualification of a recipient from the program, and 11) require a declaration from recipients that their assets are below a certain threshold.

Result of Analysis

Although the proposed regulation imposes additional costs on the Department of Social Services (DSS) and child care providers, the benefits likely exceed the costs as the regulation is necessary for Virginia to continue to receive approximately \$119 million in federal funds.

Estimated Economic Impact

CCDBG imposed a number of new requirements on states primarily to strengthen its dual role as both a major early childhood education program and a work support for low-income families. Child care assistance helps parents afford reliable child care, which can help them gain and maintain stable employment. In order to continue to receive federal funding under the Child Care and Development Fund (CCDF) subsidy program, Virginia will need to ensure that it has adopted all of these requirements. Virginia receives about \$119 million in federal CCDF funds per fiscal year and provides approximately \$48 million in state and local funds and approximately \$17 million in pre-K expenditures counted as state match and maintenance effort.¹

Twelve-month continuous eligibility

The CCDBG requires that eligible families retain enrollment in the program for 12 months. Thus, the Board proposes to adopt a presumption of eligibility for not less than 12 months before the state re-determines eligibility. This presumption is subject to certain conditions (e.g. the family income must stay below the federal threshold of 85% of state median income, there could be no substantiated intentional program violations, the recipient must stay a resident of Virginia, etc.). According to the Board staff, average length of stay in the program currently is 7 to 8 months. Providing payments for an additional 4 to 5 months beyond the current average length of stay will add to program outlays. However, CCDF is a block grant in that the total dollar amount available to Virginia is capped. Although the fund is currently reported to have enough resources to continue serving each month the current number of children being served, when there are no funds left in the program, newer applicants may be placed on a waiting list or if there is a list it could get longer.

A presumption of eligibility for 12 months will benefit the recipients already in the program as they would be allowed to stay in the program for a longer period. The Board plans to offset the additional outlays by managing the caseloads through attrition and by controlling the rate of entry into the program. Therefore, the additional outlays, if they exceed the current available resources in the fund, may create a waiting list or extend it. Existing recipients will receive benefits longer while new recipients may be delayed getting into the program. When some individuals cannot get into the program because some other recipients are allowed to stay

¹ Source: Department of Social Services

longer, a negative economic effect may spill over to other related programs. For example, if a parent is on the waiting list and cannot afford child care, his or her transition to a paying job might be delayed causing him or her to continue to stay in the Temporary Assistance for Needy Families (TANF) program. DSS expects little spill over because families whose incomes exceed the TANF income limits may receive an additional 12 months of transitional child care assistance and only if resources are not available to serve them.

According to a study², research suggests longer authorizations reduce the risk of losing benefits, supporting stable parental employment and continuity of care for the child. As a result, twelve-month continuous authorization will support children's development by providing continuity of care and by providing more stability for families who receive assistance. It will also provide more stable income for providers during a recipient's 12-month authorization period for children in their care.

It is expected that the change will also reduce the local department of social services administrative requirements of implementing the program. The proposed regulations will reduce the number of required case actions during a recipient's 12-month eligibility period; however, child care workers will be responsible for helping families understand child development issues that can impact their provider selection and they will be required to provide more information on the compliance record of the provider selected by the family.

On-site Inspections of Unlicensed Subsidy Providers

The CCDBG requires that all providers that participate in the program be inspected annually. Currently, unlicensed providers are not inspected. Under the proposed changes, unlicensed providers would have to submit to monitoring visits as required by federal law in order to continue receiving child care subsidies. The cost of this requirement includes the costs of 15 additional staff in the Division of Licensing Program hired to date to inspect unlicensed subsidy providers. Approximately \$2.8 million of funding was provided through HB1570 of the 2015 General Assembly for this cost.³ The proposed on-site inspections may provide disincentives to some providers to stop participating in the program due to actual or perceived additional costs of the inspections or to demand higher rates. The health and safety standards and

² <http://www.clasp.org/resources-and-publications/publication-1/ccdbg-guide-for-states-final.pdf>

³ <http://lis.virginia.gov/cgi-bin/legp604.exe?ses=151&typ=bil&val=hb1570>

inspection requirements for child care providers participating in the subsidy program will likely however ensure greater protection of families and children served through the program.

Health and Safety Training

The CCDBG mandates specific department-approved health and safety training, during preservice or orientation periods and ongoing, for all subsidy providers. Currently, the training is provided at no cost to caregivers. The only cost is to cover wages, if required, while the training is being taken. As a result, child care providers may incur costs to pay staff for time required to take the federally mandated training. According to the Board staff, the requirement for 10 hours of orientation training may have a potential impact of \$107.90 per person, based on the cost of wages for employees.⁴ Up to 20,000 individuals may be required to take this training. To the extent of the employee turnover in this industry, costs to providers would be higher than \$107.90 per position. In addition, the proposed regulation requires 16 hours of annual training and staff development activities. The orientation training may be counted toward the 16-hour ongoing training requirement. Currently, unlicensed providers receive only four hours of annual training. Therefore, unlicensed providers will incur costs associated with the additional 12 hours of training. The added compliance costs of the proposed training requirements may also provide disincentives to some providers to stop participating in the program or demand higher rates. On the other hand, the required training will likely improve compliance with health and safety standards and help ensure greater protection of families and children served through the program.

In addition, development of and regular updates to the required annual health and safety training will likely require some staff time. DSS estimates that approximately \$25,000 per year may be required for this purpose but plans to absorb this cost within the existing resources.

First Aid and CPR training

The proposed regulation requires all staff working directly with children to complete cardiopulmonary resuscitation (CPR) and first aid training. The CPR and first aid training may be counted toward the 16-hour ongoing training requirement. According to the board staff, if an individual is not currently first aid or CPR certified, an initial cost of \$90-\$100 may apply with

⁴ According to DSS, the potential fiscal impact is based on the Bureau of Labor Statistics, Department of Labor, which reported the annual mean wage for child care workers in Virginia as \$22,440 or \$10.79 per hour and \$107.90 for 10 hours.

an additional cost for recertification every two years. The costs vary depending on the organization that administers the certification. The Red Cross web site estimates that CPR and first aid training classes can be two to five hours long, depending on whether it is initial training or a refresher course. Consequently, licensees, or their staff, will likely incur costs for the time that these courses take. In fiscal year 2017, the program began making free first aid and CPR training available to staff in programs serving infants and toddlers and intends to continue offering assistance in this area in the future.

Provider-to-Child Ratios, Group Size Limits

The CDDBG requires that states establish group size limits and appropriate provider-to-child ratios primarily to improve health and safety protections afforded by the quality of care. The Board staff does not believe the proposed ratios for different age groups or group size limits will be a limiting factor for most providers but recognize that they could be. Normally, the licensing capacity is considered a major limiting factor. To the extent the proposed ratios are limiting factors to specific providers, they may have to drop some of their clients or hire additional staff to comply with the proposed ratios.

As mentioned above, limiting the number of children per staff could improve health and safety of children. For example, in the case of a fire, young children could be evacuated more quickly if there are more adults responsible for fewer children. Having sufficient staff available to provide the supervision and individualized care that children need is also a critical component of high-quality child care. When one caregiver is responsible for only a small number of children, the caregiver is better able to offer one-on-one attention to each child and have more interactions that encourage language and healthy social-emotional development. According to a study⁵, research shows that both child development and caregiving quality improves when child-provider ratios and group sizes (i.e., the number of children assigned to a caregiver or team of caregivers in a classroom, or well-defined space within a larger room) in child care settings are smaller.

Phase-out of Services

⁵ <http://www.clasp.org/resources-and-publications/publication-1/ccdbg-guide-for-states-final.pdf>

The CDDBG requires that families who, at redetermination, exceed initial income eligibility limits, be gradually phased-out of the program. The phase-out is not currently based on specific criteria as DSS is still working on developing these factors. There is insufficient data on which to base an estimate at this time. The federally mandated phase-out period will help families gradually assume a higher share of the cost of child care as their income increases. However, gradual phase-out may also lead to newcomers in the Fee Child Care Program being placed on a waiting list and delay their transition into a gainful employment.

Children Experiencing Homelessness

The CDDBG requires expedited enrollment of children experiencing homelessness, pending the compilation of required documentation. While this change will help parents of children and children themselves experiencing homelessness start receiving subsidy and care faster, it could potentially delay other recipients' access to the program if the total funds are insufficient to provide a subsidy to everyone who would qualify.

Beginning Date of Service Payment

The beginning date of service payment is amended to begin payment for services effective with the date the applicant is determined eligible and a vendor that meets all program participation requirements is selected. In the past, the payments began as of the date when the signed application was received. According to DSS, payments for retroactive time periods created some administrative difficulties. With the proposed change, the payments will start when eligibility is determined. This change will ensure that payments are not made prior to the provider's approval by the department as a vendor and streamline the administration of payments.

Program guidelines state that eligibility determinations is to occur within 30 days from the date of the application. Thus, this change will likely reduce the amount of subsidy payments by up to a month for new recipients and provide some savings or help serve the individuals on the waiting list sooner.

This provision will also provide incentives to the applicants to submit all supporting documentation needed to determine eligibility as soon as possible.

Other

The proposed regulation eliminates the approval process for out of state providers to participate in the program. With implementation of the new federal requirements for background checks and inspections of providers participating in the program, the agency will no longer be able to approve out of state providers for participation in the program. According to the Board staff, there were a handful of out-of-state providers that are no longer allowed to serve the program recipients.

The proposed regulation establishes a process for administrative disqualification from the program for child care recipients if there is clear and convincing evidence that fraud was committed, but the situation does not meet the Commonwealth Attorney's criteria for prosecution. Disqualification for an intentional program violation is included as a reason for disqualification from the program. The administrative disqualification process and resulting disqualification from program participation will enable the program to take action when an intentional program violation is committed, but may not meet the dollar level established by some Commonwealth Attorneys for prosecution.

The proposed regulation requires a declaration from families receiving assistance that their assets do not exceed \$1 million in value. This change would effect if any a very small number of recipients.

Businesses and Entities Affected

Child care providers, eligible families and children and local departments of social services are affected by the proposed regulation. In fiscal year 2016, 22,085 families and 36,640 children were served with subsidy dollars at some time during the fiscal year. There are approximately 3,000 child care providers who participate in the program. There are 120 local departments of social services.

Localities Particularly Affected

The proposed changes apply statewide.

Projected Impact on Employment

The proposed on-site inspection requirements led to the creation of 15 full time inspector positions. Health and safety training will create demand for state staff time to develop and update the training curriculum and demand for provider staff time to take the training. However, the proposed changes also add or may add to provider compliance costs (e.g. health and safety

training, on-site inspections, provider-to-child ratios and group size limits, etc.) and may consequently discourage participation in the program leading to a decrease in demand for provider staff time.

Effects on the Use and Value of Private Property

To the extent additional compliance costs are imposed on child care providers their asset values would decrease.

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

Most if not all of approximately 3,000 affected child care providers are believed to be small businesses. The costs and other effects on them are the same as discussed above.

Alternative Method that Minimizes Adverse Impact

There is no known alternative method that minimizes the adverse impact on the state and child care providers while accomplishing the same goals.

Adverse Impacts:

Businesses:

The proposed regulation does not affect non-small businesses.

Localities:

The proposed regulation should not affect the localities.

Other Entities:

The proposed regulation imposes costs on the state to conduct on-site inspections of unlicensed child care providers.

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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