



Virginia Department of Planning and Budget **Economic Impact Analysis**

12 VAC 30-30 Groups Covered and Agencies Responsible for Eligibility Determination
Department of Medical Assistance Services
Town Hall Action/Stage: 5203 / 8801
May 3, 2021

Summary of the Proposed Amendments to Regulation

The Director of the Department of Medical Assistance Services (DMAS) proposes to clarify that existing Medicaid hospital presumptive eligibility rules also apply to adults 19 years of age or older, but younger than 65 years of age, who became eligible for coverage under the eligibility expansion that was authorized by the 2018 General Assembly.

Background

Starting on January 1, 2019, Virginia expanded Medicaid eligibility to adults 19 years of age or older, but younger than 65 years of age, with household incomes below 138 percent of the federal poverty level. Both the 2018 and 2019 Appropriation Acts (Item 303.SS 4a) authorized DMAS to effectuate changes needed to implement the expansion. Likewise, both Appropriation Acts (Item 303.SS 4f) allowed DMAS to promulgate emergency regulations to implement the expansion related changes which became effective on October 15, 2019.¹ As of October 18, 2019, over 331,000 individuals had enrolled in the expanded category.

Federal regulations in 42 CFR 435.1101 and 1102 outline the details regarding the implementation of hospital presumptive eligibility rules by the states, and note that Medicaid recipients are presumed eligible for hospital services subject to certain conditions. However, this regulation which was adopted to comply with the federal hospital presumptive eligibility rules currently do not include the expanded eligibility category as one of the groups that are subject to hospital presumptive eligibility. The changes proposed by DMAS would permanently add the eligibility category of adults 19 years of age or older, but younger than 65 years of age, with

¹ <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=8501>

household incomes below 138 percent of the federal poverty level to the groups that are subject to hospital presumptive eligibility rules.

Under the presumptive eligibility rules previously adopted by Virginia Medicaid, eligibility determinations are made by trained hospital staff based on an assessment of the individual's status as a member of a group (i.e. pregnant women, infants and children under age 19, parents and other caretaker relatives, individuals eligible for family planning services, former foster care children, individuals needing treatment for breast and cervical cancer), their income, state residency, and citizenship status.

The hospital then assists the individual in completing and submitting a full Medicaid application for future Medicaid coverage. If the individual is found presumptively eligible, he or she is temporarily enrolled in Medicaid and health care providers receive payment for services provided during this interim period. A full application for Medicaid coverage may follow, with the determination of eligibility completed by a local department of social services, or DMAS. The presumptive eligibility begins on the date the determination is made and ends on the earlier of the day on which a decision is made on a full Medicaid application, or the last day of the month following the month that the hospital's presumptive eligibility determination was made and no full Medicaid application was filed. Payment for services covered is guaranteed during the presumptive eligibility period. There is no recoupment for Medicaid services provided during that period resulting from erroneous determinations made by qualified entities.

Estimated Benefits and Costs

The primary advantages that would result from this regulatory action are that it would: enable DMAS to comply with federal requirements; assure individuals in the expanded category timely access to care; promote Medicaid enrollment among individuals who are eligible for Medicaid but not enrolled; and permit hospitals to receive Medicaid reimbursement for covered services rendered. However, it should be noted that these effects are the result of the enabling legislation and cannot be directly attributed to the proposed regulatory language by themselves.

Also, the proposed changes have already been implemented effective October 15, 2019 under emergency regulations pursuant to 2018 and 2019 General Assembly mandates. Thus, the proposed changes are not expected to create any new economic impact following promulgation

of these permanent rules, other than clarifying the regulatory text regarding the applicability of existing hospital presumptive eligibility rules to the expansion population.

Businesses and Other Entities Affected

There are 169 hospitals in Virginia enrolled in Medicaid and 63 of them are conducting presumptive eligibility determinations. In 2020, there were 2,338 individuals who enrolled through hospital presumptive eligibility rules in the expanded category. As noted above, the proposed amendments mandated by the legislation are beneficial for both hospitals and recipients as they allow recipients to receive Medicaid services and providers to receive reimbursement for covered services rendered, but these amendments are not directly responsible for such impacts. Also, the proposed changes are not expected to create any economic effect upon promulgation of these permanent rules other than providing clarification for the regulatory text. Thus, no adverse economic impact² on any entity is indicated.

Small Businesses³ Affected:

According to DMAS, none of the 169 hospitals that are subject to the hospital presumptive eligibility rules are small businesses. Thus, the proposed amendments do not affect small businesses.

Localities⁴ Affected⁵

The proposed amendments do not introduce costs for local governments.

Projected Impact on Employment

The proposed amendments do not directly affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments do not directly affect the use and value of private property nor real estate development costs.

Legal Mandates

² Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

³ 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.”

⁴ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁵ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

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 14 (as amended, July 16, 2018). 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(D): 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.