



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

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### **12 VAC 35-105 – State Board of Mental Health, Mental Retardation, and Substance Abuse Services**

#### **Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation, and Substance Abuse Services**

February 14, 2003

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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 proposed regulations will permanently authorize the Department of Mental Health, Mental Retardation, and Substance Abuse Services to license providers of day support, crisis stabilization, and in-home support services.

### **Estimated Economic Impact**

These regulations contain licensure requirements for providers of mental health, mental retardation, and substance abuse services. The economic rationale for licensing is to minimize potential "agency costs." Agency costs arise in situations where there is a conflict of interest between the principal and the agent. Within the context of these regulations, the principal is the purchaser of mental health services and the agents are the providers. Most providers have a profit maximizing incentive, which forces them to provide the minimum level of services for a given price. Given the provider incentives, there is need for a purchaser to make sure that there

is a mechanism in place in order to assure the quality of service for the price paid. Licensing is often employed to mitigate the potential principal-agent costs that exist in the health care market.

The Commonwealth's licensing agency for mental health related services is the Department of Mental Health, Mental Retardation, and Substance Abuse Services (the department). And, Virginia's Medicaid program is one of the major purchasers of these services. Medicaid purchases some of these services under the Individual and Family Developmental Disabilities Support (IFDDS) Waiver for its recipients. Approximately half of the Medicaid spending for this waiver is financed by state support and the remaining half is financed by federal support.

Medicaid requires that all providers be licensed to qualify reimbursement in order to mitigate potential agency costs. Prior to 2002, the department did not have the authority to license providers of day support, crisis stabilization, and in-home support services. However, it was acceptable to Medicaid to pay for these services as long as the provider had a license for mental health, mental retardation, or substance abuse services. In practice, this prohibited provision of day support, crisis stabilization, and in-home support services by any provider other than then existing providers of other mental health services. In other words, providers were not afforded an opportunity to offer stand-alone day support, crisis stabilization, and in-home support services to Medicaid and they had to offer these services in conjunction with other services that were licensed. At the same time, some of the Medicaid IFDDS waiver funds were unused.

The 2002 General Assembly passed a legislation that authorized the department to license the providers of day support, crisis stabilization, and in-home support services regardless of whether other services such as mental health, mental retardation, or substance abuse were provided in order to increase the utilization of the new services by available unspent Medicaid funds.

As a result, then licensed providers modified their existing licenses to continue to be able to provide day support, crisis stabilization, and in-home support services to waiver recipients and a number of new providers also obtained a license from the department under the emergency regulations. Thus, these services became available in areas of the Commonwealth where there were no licensed providers previously. In fiscal year 2002, Medicaid spent \$60,205 for 15 day-

support recipients, \$315,873 for 33 in-home support recipients, and \$1,722 for one crisis stabilization recipient.

The proposed changes probably increased the number of IFDDS waiver recipients and the amount of Medicaid dollars spent on day support, crisis stabilization, and in-home support services. These newly available services appear to focus on keeping recipients in their homes and communities. Thus, the increased utilization of day support, crisis stabilization, and in-home support services has the potential to reduce the costs of residential treatment and may provide some cost savings. Another benefit of this change is to allow the Commonwealth to finance these services at half price because of the federal matching.

There are some costs associated with modifying the existing provider licenses, issuing new licenses, monitoring of new providers, and investigating consumer complaints on the department. The department indicates that most of these costs are small as most of the providers are just modifying their licenses and there are only a few new license applications received. Similarly, the new or existing providers incurred some small additional costs to either modify their licenses, or to obtain new licenses. However, participation in the IFDDS waiver is not mandatory. Therefore, new or existing providers would seek licenses only if the expected benefits exceeded the potential costs.

In summary, this change probably increased expenditures in day support, crisis stabilization, and in-home support services and appears to have the potential to provide some savings in residential treatment costs.

## **Businesses and Entities Affected**

The proposed regulations apply to providers of day support, crisis stabilization, and in-home support service providers. Currently, about 11 facilities have a license to provide these services in Virginia.

## **Localities Particularly Affected**

The proposed regulations apply throughout the Commonwealth.

## **Projected Impact on Employment**

The proposed change probably increased the demand for day support, crisis stabilization, and in-home support services by a small amount.

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

Similarly, the potential increase in revenues of day support, crisis stabilization, and in-home support service providers may have positively affected their value.