



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 40-170 –State Board of Social Services Voluntary Registration of Family Day Homes-Requirements for Contracting Organizations June 1, 2004

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 (i) allow voluntary family day home contracting organizations to collect up to \$50 fee associated with inspection of a new facility when a provider relocates, (ii) increase the fee for additional home visits to confirm corrective action from \$10 to \$20, (iii) remove the requirements to have a review committee and transfer the responsibilities related to adverse actions from contractors to the Department of Social Services, (iv) transfer the responsibility to the Department of Social Services for assuring that registered providers and parents have access to information on the parents statement, and (v) clarify numerous other requirements.

Estimated Economic Impact

The proposed regulations apply to contracting organizations that administer the voluntary registration program for family day homes. Family day homes providing care to fewer than six children may voluntarily register with the Department of Social Services (the department). The voluntary registration program is currently administered by six organizations that operate under

contracts with the department in a specific area of the state. Contracting organizations conduct criminal history background checks, child abuse registry checks, process tuberculosis screenings and assess the health and safety of the homes and personal qualifications. Upon recommendation by a contracting organization, the department issues a certificate of registration valid for two years. Currently, about 1,185 providers are issued voluntary registration certificates upon recommendation by the contracting organizations. These regulations establish standards of administration, personnel, and service for these organizations.

One of the proposed changes will allow contracting organizations to collect up to \$50 fee when a voluntarily registered provider moves to a new address. The organizations currently are not authorized to collect any fees when a provider changes its address. However, when a provider relocates, the contracting organization must conduct a new inspection to ensure compliance of the new facility with health and safety standards. This proposed change will allow the contracting organizations to recover some of the costs associated with the inspection from the providers.

The department reports that last year approximately 45 providers relocated, but only 18 chose to maintain their certificates while the remaining ones moved out of state, could not be located, or chose not to continue in the program. Based on 18 relocations per year, the proposed new fee would transfer approximately \$900 from providers to contracting organizations to cover their costs associated with additional inspections of new facilities.

Another proposed change will increase the \$10 maximum fee the organizations may charge for follow up corrective action visits to \$20. Since there is no available data on the number of corrective action visits, the total fiscal impact of this change cannot be accurately estimated, but similar to the previous change, this increased fee will allow contracting organizations to recover a larger share of their costs.

Another proposed change will eliminate the requirement that a contracting organization maintain a review committee including at least three people. Currently, these committees make recommendations to the commissioner to deny, revoke, or refuse to renew a certificate of registration. Also, the current regulations assign to the contracting organizations several responsibilities related to adverse actions such as issuance of notices and appeal hearings. The department already addresses all adverse actions through the Administrative Process Act. The

removal of these requirements will eliminate duplicative and unnecessary processes that have been causing some delays. Thus, this change is expected to expedite the decision process regarding adverse actions. Also, some savings in terms of staff time are expected to accrue to the contracting organizations. However, whether expected savings in staff time will translate into fiscal savings is not known as we do not know whether the review committee members receive any compensation for their work on the committee.

The proposed changes will also shift from contracting organizations to the department the responsibility of supplying the Parents Statement to home care providers. This statement contains information for parents that the provider has received certificate of registration, that the provider is required to comply with certain requirements, that parents may report alleged violations, and about the scope and limitations of voluntary registration, etc. Currently, the department already supplies that information to the providers. Thus, this change may provide small savings in terms of copying costs to the contracting organizations.

All of the remaining proposed changes are clarifications of the current requirements or enforcement and are not expected to create any significant economic effects.

At the aggregate, the proposed changes will (1) reduce the administrative costs for the contracting organizations by a small amount and (2) allow contracting organizations to recover a larger proportion of their costs from voluntarily registering providers. Thus, these changes can be expected to strengthen incentives for contracting organizations to continue participation in voluntary registration program. On the other hand, incentives for voluntary providers to obtain a certification and comply with health and safety requirements included in the regulations may be weakened. However, the department believes that even with the proposed fee adjustments, the contracting organizations will likely continue to absorb some of the costs associated with administering this program.

The contracting organizations administer the voluntary registration program for not-for-profit purposes, as there is no direct funding from the department. These organizations are allowed to charge some fees to cover some of their costs. However, it appears that the maximum fees that are allowed under these regulations, even with the proposed new fee for relocations and increased fee for corrective action visits, do not cover the cost of inspections. For example, in its notification letter to end participation in this program, one of the contractors stated that it costs

more than the revenues it can collect for each initial registration, maintaining provider records, providing technical assistance, investigating complaints, visits to provider who moved, and additional corrective action visits. Telephone conversations with the contracting organizations revealed that the actual costs per provider per year is in the \$250-\$300 range.

Theoretically speaking, voluntarily participating providers should be required to cover the costs to the extent they receive private benefits from it. Also, it would be irrational for providers to obtain voluntary certification unless they stand to gain. If substantial costs were required to improve a facility to obtain voluntary certification, we would not expect many providers to proceed, but give up the voluntary certification option. One of the providers indicates that the main reason for most of the providers to voluntarily register is being eligible to provide care to children whose costs are paid by the state. Thus, it seems that the primary responsibility to pay for the costs associated with voluntary registration falls on the providers.

One might argue the opposite on the grounds that there are public benefits from voluntary compliance. If that is the case, the economic theory suggests the program costs should be paid from public funds.

These regulations allow contracting organizations to collect fees from the providers and hence can be assumed to support the belief that the providers should pay the costs. However, the fees that can be collected appear to be too low, forcing contracting organizations to absorb some of these costs. Since the providers, or the government, or both should pay for the program costs, economic theory suggests that unintentionally forcing the contracting organizations to continue to pay for these costs may lower economic welfare. Unless the funding of contracting organization costs is raised to the level commensurate with their actual costs, it would be unrealistic to expect their continued participation in this program.

Businesses and Entities Affected

Currently, there are six contracting organizations administering the voluntary registration program. Approximately 1,185 family day home providers are voluntarily registered.

Localities Particularly Affected

The proposed regulations apply throughout the commonwealth.

Projected Impact on Employment

The proposed changes do not appear to have the potential to affect the business decisions of providers in a significant way, partly because these rules are for voluntary certification. Thus, no significant effect on employment is expected.

Effects on the Use and Value of Private Property

Similarly, due to the voluntary nature of this regulation, no significant effect on the use and value of private property is expected.