



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

12 VAC 30-80 Methods and Standards for Establishing Payment Rates - Other Types of Care

Department of Medical Assistance Services

Town Hall Action/Stage: 5367 / 8730

February 12, 2020

Summary of the Proposed Amendments to Regulation

The Board of Medical Assistance Services (Board) proposes to remove regulatory text that indicates incontinence supplies for fee-for-service members are purchased from a single vendor.

Background

Six years ago, the Virginia Medicaid program started purchasing incontinence supplies for fee-for-service members under a contract with a single vendor. In this action, the Board proposes to remove language that indicates incontinence supplies are purchased from a single vendor because the Board now allows any Medicaid-enrolled supplier to provide these products in the same manner as any other durable medical equipment. This action does not alter the prices Medicaid pays for these supplies.

Estimated Benefits and Costs

The current regulatory language indicates that the Virginia Medicaid program reimburses supplies such as adult diapers, pull-ups, liners, and bed pads for its fee-for-service members based on a selective contract with a single vendor. The Department of Medical Assistance Services (DMAS) had a one-vendor contract for these supplies that ended on December 31, 2019. As of January 1, 2020, DMAS started allowing any Medicaid enrolled vendor to provide incontinence supplies to fee-for-service members. The prices for incontinence supplies did not change and the oversight and controls of these providers remains the same. As of December 31,

2019, there were 1,131 members receiving incontinence supplies under the contract. The total dollar amount spent in 2019 for these supplies was \$850,456.¹

Since the prices remain the same, no fiscal impact is expected from this change. Competition among the enrolled vendors, however, may lead to benefits for Medicaid members, such as improvements in the customer service offered. In addition, the proposed change would remove language that no longer reflects how these supplies are now purchased.

Businesses and Other Entities Affected

The proposed amendment affects the vendors providing incontinence supplies to fee-for-service-members and the members that receive them. At the end of 2019, there were 1,131 members receiving these supplies. The proposed change would negatively affect the previous vendor and positively affect the new vendors in terms of volume of sales lost and gained, respectively.² An adverse economic impact³ on the previous vendor is indicated because there do not appear to be any offsetting direct benefits to that vendor.

Small Businesses⁴ Affected:

The proposed amendment would adversely affect the previous single source vendor that is, according to DMAS, a small businesses.

Types and Estimated Number of Small Businesses Affected

The proposed amendment negatively affects one small business and would likely positively affect several other small vendors in terms of their sales volume. Since the change in purchase policy occurred at the beginning of this year, it is too early to provide a reliable estimate on the number of new vendors that may choose to start providing these supplies to Virginia Medicaid.

Costs and Other Effects

The proposed amendment would introduce competition to the incumbent single source vendor, would likely reduce that vendor's revenues while increasing revenues of

¹ Source: DMAS

² According to DMAS, incumbent continues to provide its services as an enrolled provider.

³ 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.

⁴ 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."

other vendors choosing to enroll as a Medicaid provider. An adverse economic impact on the incumbent single source vendor is indicated because there do not appear to be any offsetting direct benefits to that vendor.

Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities⁵ Affected⁶

The proposed amendments potentially affect members and vendors in all 132 localities but do not introduce costs for local governments. Accordingly, no additional funds would be required.

Projected Impact on Employment

The proposed amendment should not have a significant impact on total employment.

Effects on the Use and Value of Private Property

Increased competition would negatively affect the asset value of the incumbent vendor as its sales would be expected to decline in a competitive marketplace, and positively affect asset values of new vendors as their sales would be expected to increase. The proposed amendment does not affect real estate development costs.

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 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.

⁵ “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.

⁶ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

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.