



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 30-50; 80; 120 – Amount, Duration, and Scope of Medical and Remedial Services; Methods and Standards for Establishing Payment rates – Other Types of Care; Waivered Services

Department of Medical Assistance Services

March 17, 2010

Summary of the Proposed Amendments to Regulation

The proposed regulations make permanent the Medicaid coverage for early intervention services for children less than three years of age and who are eligible for these services. These changes have been in effect under emergency regulations since 10/29/2009.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The proposed regulations provide Medicaid coverage for early intervention services for children less than three years of age and who are eligible for these services. Part C of the Individuals with Disabilities Education Act of 2004 as set out in 34 CFR 303.527 established payor of last resort provisions. Payor of last resort provisions mandated that Part C program funds may not be used for services that would otherwise have been paid from other sources. Also, Item 306 TTT of the 2009 Appropriations Act directed the Department of Medical Assistance Services (DMAS) to comply with these payor of last resort provisions and implement the changes under emergency regulations. Emergency regulations became effective on 10/29/2009.

The delivery system to provide early intervention services in Virginia is the Infant and Toddler Connection of Virginia (I&TC). The I&TC is administered through local lead agencies. All local efforts are overseen by the Department of Behavior Health and Developmental Services (DBHDS), which receives Virginia's Part C allotment and administers the overall program.

DBHDS contracts with local agencies to facilitate implementation of early intervention services statewide. The majority of local agencies are under the auspices of Community Services Boards, along with several universities, public health districts, local governments, and local education agencies.

Prior to the emergency regulations, local IT&C systems had two choices for serving pre-school children enrolled in Medicaid: 1) provide all early intervention services to Medicaid enrollees with the regular licensed rehabilitation therapists, who may lack the specialized knowledge and experience for early intervention, or 2) provide some early intervention services without Medicaid reimbursement, but pay for them with limited federal Part C, state, or local funds.

The proposed regulations establish that providers of early intervention services for Medicaid children through the Part C program bill Medicaid first before using federal, local, or state-only Part C program funds.

The proposed regulations also create a new model for service delivery. According to DMAS, most of the services needed by the children enrolled are habilitative in nature. In other words, they are designed to help a child with an identified developmental concern to achieve a given function for the first time, such as walking or talking. Traditional rehabilitation therapists are not always the most appropriate providers of early intervention services. Some children are better served by other practitioners with specialized knowledge and experience regarding child development and early intervention methods, together with consultation from licensed rehabilitation therapists as needed.

The proposed early intervention services would be provided in the child's natural environment, engage the family in the intervention, and engage the expertise of a multidisciplinary team to support the direct service provider. The new approach supports Medicaid payment for a broad base of qualified providers with demonstrated knowledge and skills in early intervention principles and practices. This regulatory action requires Part C practitioners to be certified by DBHDS as a condition of participation with DMAS as designated early intervention service providers in the Medicaid program. Under the new model, providers would obtain Part C designation from DMAS and bill for services as early intervention providers rather than as rehabilitation providers or other designations.

The main economic effect of the proposed regulations is the additional influx of federal funds coming into the Commonwealth. The proposed changes enable the Commonwealth to draw down the maximum available federal Medicaid match for Part C services currently being paid with federal, local, or state only program funds. DMAS estimates that approximately \$4.6 million in total funds will be needed to pay for early intervention services to Medicaid eligible children provided by qualified practitioners who previously were not eligible to enroll as Medicaid provider. Of this amount, one half, or \$2.3 million, is paid by the state and the remaining half is paid by the federal matching funds. DMAS will obtain the \$2.3 million state portion by transfer from DBHDS. Because these services are currently being paid without federal matching funds, the proposed Medicaid coverage of early intervention services will result in a net increase of approximately \$2.3 million to the Commonwealth.

Another major benefit of the proposed regulations is the expected improvement in service delivery and outcomes. DMAS believes that children may be better served by practitioners with specialized knowledge and experience regarding child development and early intervention methods, together with consultation from licensed rehabilitation therapists as needed.

The proposed regulations are also expected to create additional administrative costs in terms of staff time needed to process claims, ongoing training and technical support, and programmatic changes in to the computerized claims processing system.

It is worth noting that these regulations have already been in effect and their economic effects have already been materialized. Thus, no additional economic effects are expected upon promulgation of these proposed changes.

Businesses and Entities Affected

As of January 2010, 2942 infants and toddlers were eligible to receive early intervention services from Medicaid and there were approximately 100 providers enrolled.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed regulations are not expected to create a direct significant effect on employment. However, the demand for labor by the new types of early intervention services

providers may increase. Also, if the additional federal matching funds expected to come to Virginia are spent in other areas, we may see an indirect increase in demand for labor in those areas.

Effects on the Use and Value of Private Property

The proposed regulations are not expected to significantly affect the use and value of private property.

Small Businesses: Costs and Other Effects

Approximately half of the 100 early intervention services providers enrolled in Medicaid are believed to be small businesses. The proposed regulations may increase revenues of new types of early intervention services providers. However, no direct costs are imposed on them.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No direct adverse effects on small businesses are expected.

Real Estate Development Costs

No real estate development costs are expected.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 107 (09). Section 2.2-4007.H 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a

description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.