Office of Regulatory Management

Economic Review Form

Agency name	Department of Behavioral Health and Developmental Services
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC 35-225
VAC Chapter title(s)	Requirements for Virginia's Early Intervention System
Action title	Periodic Review
Date this document prepared	10/19/2023
Regulatory Stage (including Issuance of Guidance Documents)	Initiating Periodic Review

Cost Benefit Analysis

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	Omitted in accordance with the ORM Regulatory Analysis Manual, page 3.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Net Monetized Benefit	$0	
(4) Other Costs & Benefits (Non-Monetized)	$0	
(5) Information Sources		

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	Omitted in accordance with the ORM Regulatory Analysis Manual, page 3.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	Omitted in accordance with the ORM Regulatory Analysis Manual, page 3.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

Impact on Local Partners

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	The purpose of these regulations is to implement Virginia's early intervention services system for infants and toddlers with disabilities and their families in compliance with Part C of the federal Individuals with Disabilities Education Act (IDEA). Chapter 806 of the 2013 Virginia Acts of Assembly (Budget Bill Item # 315 H.4) required the Department of Behavioral Health and Developmental Services to promulgate these regulations. Since these regulations follow the federal regulations under

	Part C of IDEA and states that receive federal early intervention funding must have regulations or policies and procedures that comply with Part C of IDEA in order to receive those funds, these costs would be the same with or without these state regulations. DBHDS contracts with thirty-nine (39) public local lead agencies to facilitate implementation of local early intervention services statewide. The following information addresses the impact of the current regulation on these local partners: Direct Costs: Under §2.2-5304.1.C of the Code of Virginia, localities cannot be mandated to provide funding for any costs under these early intervention regulations, either directly or through participating local public agencies. Although not required to do so, local lead agencies contributed $13,916,575 in local funding in FY 2023 and another $763,101of in-kind contribution toward the cost of implementing the early intervention system and providing early intervention services to infants and toddlers with disabilities and their families. Direct Benefits: These regulations establish Virginia's early intervention program, which provides critical services to infants and toddlers with disabilities and their families. Research finds that early intervention reduces the need for special education and grade retention and reduces future costs in welfare and criminal justice programs. Estimates on the cost savings vary, but the long-term study associated with the Perry Preschool Project[1] indicates that every dollar invested in early education will lead to at least a seven dollar return. In addition, the regulations clearly identify the requirements associated with implementing Virginia's early intervention system so that all stakeholders, including local partners, are aware of the requirements.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Other Costs & Benefits (Non-Monetized)		

[1] https://highscope.org/perry-preschool-project/#:~:text=The%20Perry%20Project%20was%20conducted,the%20trajectory%20of%20early%20education

(4) Assistance	DBHDS provides each of the local lead agencies with federal and state funding annually to implement these regulations. For FY 2024, a total of $9,464,417 in federal Part C funds and $26,556,453 in state funds were allocated to the local lead agencies for this purpose. Local agencies also bill Medicaid, private insurance, TRICARE, and families for early intervention services. In FY 2023, reimbursement from these sources accounted for $37,501,465 in revenue for early intervention statewide.
(5) Information Sources	Local contracts, local early intervention budgets, local mid-year and year-end expenditure and revenue reports, and anecdotal information from local partner agencies.

<u>Impacts on Families</u>

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	The following information addresses the impact of the current regulation: Direct Costs: Although some early intervention services (e.g., service coordination, assessment, and IFSP development) must be provided at no cost to families in accordance with federal IDEA regulations, the current Virginia regulations allow that families are charged for the cost of other early intervention services in accordance with their ability to pay. The current Virginia regulations also require that no family can be denied early intervention services because of an inability to pay. Families may (but are not required to) use Medicaid, TRICARE, or private insurance coverage toward the cost of their child's early intervention services. Families have the option to provide income and family size information to establish a monthly cap on their out-of-pocket expenses for early intervention services based on a sliding fee scale. If the monthly cap established through the sliding fee scale is still too high, the family may request a fee appeal and provide additional documentation on household expenses (e.g., food, energy, transportation, clothing, health care, education, etc.) to further reduce or eliminate their costs. Families whose child has or would qualify for Medicaid pay $0 for early intervention. In FY 2023, a total of $1,901,351 in family fees were collected statewide. Direct Benefits: Infants and toddlers from birth to age three who are not developing as expected or who have a medical condition that can delay normal development may require early intervention supports and services. The Virginia statewide system of early intervention services has been operating since the mid-1980s to identify children who could benefit from early intervention services, establish their eligibility under Part C of the Individuals with Disabilities Education Act (IDEA), coordinate care, and ensure the availability of needed services. Last year over 23,000 infants and toddlers and their families benefited from these services.

	These regulations establish the procedural safeguards that protect families' rights as the decision-makers for their children and families and the dispute resolution options available when there is disagreement between a family and a service program. These regulations also detail the standards and expectations regarding service planning and delivery, transition or discharge from the early intervention system of care, and personnel qualifications of those who provide services. Virginia and national data indicate that early intervention leads to many positive outcomes for children and families. Not only do eligible infants and toddlers benefit developmentally from early intervention, but data[2] also indicates that early intervention helps Virginia families help their children develop and learn, communicate their children's needs, and know their early intervention rights.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Other Costs & Benefits (Non-Monetized)		
(4) Information Sources	Local mid-year and year-end expenditure and revenue reports, anecdotal information from local partner agencies, and from families.	

Impacts on Small Businesses

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	Most local lead agencies contract with private provider agencies to deliver some of the early intervention services in the locality. Some of these private provider agencies are small businesses. The following information addresses the impact of the current regulation: Direct Costs: Private provider agencies may have higher costs associated with providing early intervention services than other services (services to young children with developmental delays or disabilities that are not under Part C) due to requirements necessary to comply with Part C of IDEA, including the requirements detailed in the current Virginia regulation. The reimbursement rates established for early intervention

[2] Public Reporting — Infant & Toddler Connection of Virginia (itcva.online), under Family Survey.

<table>
<tr><td></td><td colspan="2">services considered these additional requirements (e.g., documentation, supervision, billing).

Indirect Costs: This regulation has not resulted in the loss of private provider agencies participating in early intervention. In fact, instead of only occupational, physical, and speech therapy, over time some participating private agencies have added case management and developmental services, which can be reimbursed under early intervention.

Direct Benefits: Under this regulation, each private provider agency is guaranteed to receive the full amount of the early intervention rate (as established in the contract with a local lead agency) since Part C funds are used to cover any part of the rate not covered by another payment source.

Indirect Benefits: Some children leaving early intervention who need continued therapy services stay with the private provider agency from whom they received early intervention services.</td></tr>
<tr><td colspan="3"></td></tr>
<tr><td>(2) Present Monetized Values</td><td>Direct & Indirect Costs</td><td>Direct & Indirect Benefits</td></tr>
<tr><td></td><td>(a)</td><td>(b)</td></tr>
<tr><td colspan="3"></td></tr>
<tr><td>(3) Other Costs & Benefits (Non-Monetized)</td><td colspan="2"></td></tr>
<tr><td>(4) Alternatives</td><td colspan="2"></td></tr>
<tr><td>(5) Information Sources</td><td colspan="2"></td></tr>
</table>

<u>Changes to Number of Regulatory Requirements</u>

Table 5: Regulatory Reduction

Note: As this was a periodic review seeking comment from the public, there are no proposed amendments to the regulation at this time.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
	(M/A):	**43**	0	0	0
	(D/A):	**35**	0	0	0
	(M/R):	**79**	0	0	0
	(D/R):	**142**	0	0	0
				Grand Total of Changes in Requirements:	**(M/A): 0**
					(D/A): 0
					(M/R): 0
					(D/R): 0

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).