

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB787

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Hope

3. **Committee:** Health and Human Services

4. **Title:** Administrative Process Act; exemptions; limitations; appeals of case decisions regarding benefits

5. **Summary:** Provides that in appeals of case decisions regarding the grant or denial of Temporary Assistance to Needy Families (TANF), Medicaid, Supplemental Nutrition Assistance Program (SNAP) benefits, general relief, auxiliary grants, or state-local hospitalization, the review shall be based upon the agency record and the court may enter intermediate relief. The bill also provides that in such appeals, unless an error of law appears, the court shall enter judgment by dismissing the review action or affirming the agency regulation or decision.

6. **Budget Amendment Necessary:** Yes.

7. **Fiscal Impact Estimates:** Preliminary.

7a. Expenditure Impact:

Office of the Attorney General:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	\$370,867	3	General fund
2025	\$370,867	3	General fund
2026	\$370,867	3	General fund
2027	\$370,867	3	General fund
2028	\$370,867	3	General fund
2029	\$370,867	3	General fund
2030	\$370,867	3	General fund

8. **Fiscal Implications:**

Department of Social Services (DSS):

This legislation does not propose any expansion or reduction to the department’s legal authority or service population. The bill will not impact the agency’s internal appeal process, as it leaves intact the Code language prohibiting factual challenges to laws and regulations. It does incorporate by reference §§ 2.2-4027 and 2.2-4029, both of which could be interpreted to allow for an appellant to challenge a statute or regulation, despite not being authorized

under § 2.2-4025. It is unknown how many individuals will try to interpret the issues of law language as authorization to challenge a statute or regulation. DSS believes that this language has traditionally been interpreted to be with respect to legal challenges to an agency's actions and determinations, and not challenge to the law. Therefore, the fiscal impact to the Department of Social Services is indeterminate.

Department of Medical Assistance Services (DMAS):

Currently, in the context of DMAS administrative appeals, Medicaid providers cannot challenge the validity of the Code sections, regulations, or Appropriation Act language with respect to items including reimbursement rates, auditing or quality standards. The same would apply to challenges raised by enrollees and applicants with respect to issues such as eligibility criteria or assistance levels. It is assumed that the bill only clarifies that appellants of DMAS/DSS actions have the right to challenge agency factual and legal determinations but leaves intact the Code's prohibitions on directly challenging the validity of the statute, regulation or rule upon which DMAS/DSS relied in taking a negative action or making a negative determination against an appellant. As such, the expected impact on DMAS is minimal. However, should the bill be construed to provide greater appeals rights, then the fiscal implications could be significant.

Office of the Attorney General (OAG):

The Office of the Attorney General has indicated that it needs two attorneys at a cost of \$136,951 general fund each and one legal secretary at a cost of \$96,965 general fund to meet the requirements of this bill.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Social Services, Department of Medical Assistance Services, Office of the Attorney General
- 10. Technical Amendment Necessary:** A subcommittee adopted the following amendment, which appears to correct a reference to the incorrect code section in the original bill:

1. Line 33, introduced, after with

strike

§ 2.2-4007

insert

§ 2.2-4027

- 11. Other Comments:** None.