

## Department of Planning and Budget

### 2015 Fiscal Impact Statement

**1. Bill Number:** SB928-Revised

**House of Origin**    ☐ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☒ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Edwards, J.

**3. Committee:** General Laws and Technology

**4. Title:** Virginia Administrative Process Act; default by non-appearing party.

**5. Summary:** Establishes a mechanism to more efficiently dispose of contested matters under the Virginia Administrative Process Act where the defendant in an administrative proceeding fails to appear at a hearing without a valid excuse. Currently, unless an agency's enabling statute provides differently, there is no provision for allowing an agency to enter a default order in a case in which the defendant fails to appear at a hearing.

**6. Budget Amendment Necessary:** Indeterminate.

**7. Fiscal Impact Estimates:** See Item 8.

**8. Fiscal Implications:** For most agencies this bill will have no fiscal impact. The Department of Medical Assistance Services (DMAS) may be negatively affected.

Currently, per its regulations (12VAC30-20-520), DMAS dismisses appeals of provider overpayment determinations upon failure to appear. The bill includes a provision that permits the party who failed to appear up to 15 days to petition that the failure to appear was for good cause. For DMAS, this provision would lengthen the time for decisions to be rendered.

Virginia Code § 32.1-325.1 requires DMAS to make an initial determination as to whether an overpayment has been made to a provider within 180 days of receipt of an appeal request from the provider. Virginia Code § 32.1-325.1 further states that "If the agency does not render a decision within 180 days, the decision is deemed to be in favor of the provider." Thus the provision in the bill for 15 days to petition will increase the likelihood that some cases will be deemed to be in favor of the provider due to failure to render a decision within 180 days.

DMAS believes that the provision will incentivize intentional delays on the part of appealing providers, and may result in the loss of several hundreds of thousands of dollars annually for the agency.

**9. Specific Agency or Political Subdivisions Affected:** All state agencies that hold hearings and are not exempt from the Administrative Process Act, the Office of the Attorney General, and the Supreme Court.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

Date: 2/5/15