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## Final Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22VAC40-601
<b>Regulation title(s)</b>	Supplemental Nutrition Assistance Program
<b>Action title</b>	Revise Guidelines for Counting Income Toward SNAP Eligibility.
<b>Date this document prepared</b>	April 18, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This final stage regulatory action follows proposed language to add a new section, §70, to 22 VAC 40-601. Section 22 VAC 40-601-70 will reduce countable income used in determining eligibility for Supplemental Nutrition Assistance Program (SNAP) benefits or used to determine the amount of SNAP benefits received. The amounts paid by SNAP household members for child support, pursuant to a court or administrative order, will be excluded as income in SNAP calculations. Current procedures allow for the deduction of support amounts paid as countable income instead of allowing the support amount paid as an exclusion of income. Changing how child support payments are allowed will not likely result in higher SNAP benefit amounts for households that pay support but, income exclusions for support amounts paid could potentially result in fewer households being denied SNAP benefits for having income amounts that exceed the allowable income limits.

There are no changes in the regulatory text from the proposed stage to the final stage.

## Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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CFR - Code of Federal Regulations  
SNAP - Supplemental Nutrition Assistance Program  
VDSS - Virginia Department of Social Services

## Statement of final agency action

*Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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The State Board of Social Services took final action on 22VAC40-460, Supplemental Nutrition Assistance Program, on April 18, 2018

## Legal basis

*Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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Section 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. Title 7 of the CFR at section 271.4 delegates responsibility to administer SNAP within a state to the agency assigned responsibility for other federally funded public assistance programs. Federal regulations at 7 CFR 273.9(d)(5) permit states the option to either count legally obligated child support payments to non-household members as an income deduction or an income exclusion. Virginia currently uses the income deduction option.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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In an effort to encourage non-custodial parents to meet their obligations to pay child support, the agency proposes to change how legally obligated child support payments are evaluated when determining SNAP eligibility and in determining the amount of SNAP benefits these households may receive. States may evaluate child support payments for SNAP households as an income deduction or an income exclusion. States must select only one method to assess child support payments. The agency chose to exclude the amount paid for child support as income so that more households may meet the maximum income amount.

The agency is hopeful that as more households meet the maximum income amounts, fewer households may be denied for exceeding the income limit. Denying households for exceeding the maximum income limits may be an incentive for noncustodial parents to make their legally obligated child support payments regularly. Having parents meet their child support obligations regularly promotes the health, safety, or welfare of citizens by reducing reliance on public assistance programs and increases financial resources for affected families.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

22 VAC 40-601-70 will allow SNAP households to have mandatory child support paid to or for individuals outside the SNAP household to be excluded from their gross income when determining eligibility for SNAP benefits. Applicant households for SNAP benefits must meet a gross income test if the household does not contain at least one household member who is 60 years of age or older or one member who is permanently disabled. If the gross income exceeds the allowable limit for the size of the household, the application for SNAP benefits must be denied without any consideration of household expenses. Excluding child support payment amounts as income reduces the gross income amount for a household that conceivably may allow more households to meet the gross income eligibility test.

### Issues

*Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

Changing how child support payments are evaluated for SNAP applicants and recipients offers the potential advantage to affected households of reducing countable gross income. If households pass the gross income eligibility screening test, allowable household expenses are evaluated and deducted. After household expenses are deducted, the calculated net income for all applicant households must fall below the allowable new income limit based on household size in order to receive a SNAP benefit. Calculated SNAP benefit amounts are not affected by the adoption of income exclusion for child support payments over the income deduction method so program integrity is maintained. If households are eligible for SNAP benefits, the likelihood of food insecurity is lessened and available household resources are increased as households devote less of their disposable income toward the purchase of food.

A programming change to the VDSS eligibility computer system will be needed to allow for the exclusion as income for child support payments instead of a deduction from the income. However, neither local departments of social services nor local eligibility workers should be adversely affected by this change.

There are no disadvantages to the public or the Commonwealth.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

Federal regulations allow states the option to consider child support payments as a deduction from income or as an income exclusion. This amendment does not exceed federal requirements.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

All Virginia localities receive and evaluate applications for SNAP benefits and local food vendors receive SNAP benefits as payment for food purchases. Therefore, the proposed regulations may affect all localities as it has the potential to affect the number of households that are eligible for benefits.

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The amended regulation may strengthen the nurturing relationship between parents and their children, as non-custodial parents must pay legally owed child support to have that amount excluded as income for SNAP calculations. This action does not alter the rights of parents to direct the education or supervision of children. The regulation neither encourages nor discourages economic self-sufficiency or self-pride nor does it alter responsibility for oneself or family or affect marital commitment.

This regulation may determine whether some households are eligible for SNAP benefits by excluding a portion of the income and result in households meeting the gross income eligibility level. These households will then have the opportunity to submit other household expenses and, if eligible, be determined eligible for a SNAP benefit amount. Households that are eligible for SNAP benefits may have more disposable family income. The amount of SNAP benefits a household receives helps to supplement the amount of money available for food purchases.

### Changes made since the proposed stage

*Please list all changes that made to the text since the proposed regulation was published in the Virginia Register of Regulations and the rationale for the changes; explain the new requirements and what they*

mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.

No changes made since proposed.

**Public comment**

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

Commenter	Comment	Agency response
Danielle Draper (Received via Town Hall)	I agree with this proposed action. After studying SNAP as a part of a graduate school assignment it was brought to my attention that the current SNAP benefits most receive do not even last them the entire month. To ensure people continue to pay child support and to make sure they receive hopefully enough benefits, the support paid should be excluded from countable income.	The Department agrees with the Commenter. The intended outcome of the proposed regulation is for non-custodial parents to pay child support.
Gina Wurfel (Received via Town Hall)	I agree not counting child support as part of income should not only increase complying with making the payments but also will offer some more support to the parent paying child support. This in turn will let the parent feel less stress about managing their day to day lives and hopefully lead to better compliance and involvement with their children.	The Department agrees with the Commenter.

**All changes made in this regulatory action**

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

n/a	70	<p>Current procedures allow for the deduction of child support payments when calculating countable income for determination of SNAP eligibility and benefit amount.</p>	<p>The amounts paid by SNAP household members for child support, pursuant to a court or administrative order, will be excluded as income, as opposed to the current practice of deducting payments when performing SNAP calculations.</p> <p>Changing how child support payments is factored when determining SNAP eligibility will not likely result in higher benefit amounts for those households. However, income exclusions for child support amounts paid could potentially result in fewer households being denied SNAP benefits for having income that exceed the allowable limits.</p>
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