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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-601
Regulation title(s)	Supplemental Nutrition Assistance Program
Action title	Income Exclusion for Legally Obligated Child Support Payments
Date this document prepared	December 9, 2015

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*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The intent of this action is to reduce countable income used in determining eligibility for SNAP benefits for applicants and recipients paying child support pursuant to a court or administrative order. A new section, 80, will be created to accomplish this. This action alters current procedures by excluding the support amount paid as countable income, instead of allowing the support amount paid as a deduction from the income. Changing the method in which child support payments are allowed could potentially result in higher SNAP benefit amounts for households that pay support. The goal is to create an incentive to keep child support payments current.

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.

Section 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations necessary to operate assistance programs in Virginia. Title 7 of the Code of Federal Regulations (CFR) at section 271.4 authorizes the administration of SNAP to the state 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 describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

The agency is proposing 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. Federal regulations at 7 CFR 273.9(d) (5) allow states to evaluate child support payments for SNAP households as an income deduction or as an income exclusion. States may select only one method for assessing child support payments. This proposed action changes how Virginia will evaluate child support payments from the income deduction option to the income exclusion option. This proposed action does not alter how other household expenses are evaluated for SNAP purposes, nor does this proposed action affect eligibility for other benefit programs. Application of the income exclusion option is likely to result in higher SNAP benefit amounts for households that pay child support and have earned income. The agency is hopeful that higher SNAP benefit amounts will be an incentive for noncustodial parents to make their legally obligated child support payments regularly.

This regulatory action and regulation protect the health, safety, and welfare of citizens. By encouraging non-custodial parents to keep their child support obligations current, the safety and health of their children who depend on the support will be protected and it will reduce their dependence on other public assistance programs that are jointly funded by general and federal funds.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The new section, 22VAC 40-601-80, will allow SNAP households to have mandatory child support paid to individuals outside the SNAP household to be deducted from their gross income when determining eligibility for SNAP benefits. While all SNAP households with countable income and obligated child support payments should positively be affected by excluding the portion of income by reducing countable income by the amount paid in legal child support, it is likely that the impact of the income exclusion will be greater for households with earned income. This action alters current procedures by excluding the support amount paid as countable income instead of allowing the support amount paid as a deduction from the income.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Federal regulations allow only two methods for evaluating child support payments for SNAP calculations. Child support payments may be allowed as an income deduction or an income exclusion. When child support payments were initially allowed for consideration for the food assistance program, the agency selected the income deduction option because this option uniformly applied the deduction. This change will have positive results for the non-custodial parent that pays the support as well as their children by providing a regular stream of income. There are no alternatives to making this change other than through regulatory action.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Celestine Jackson, Virginia Department of Social Services, Division of Benefit Programs, 801 E. Main Street, Richmond, Virginia 23219. The telephone number is (804) 726-7376 and the fax number is (804) 726-7357. The e-mail address is celestine.jackson@dss.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action. A panel will not be used.