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Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-201
VAC Chapter title(s)	Permanency Services – Prevention, Foster Care, Adoption, and Independent Living
Action title	Amend Permanency Regulation as a Result of 2017 Legislation
Date this document prepared	June 19, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Permanency regulation, 22VAC40-201, provides standards for local departments of social services (LDSS) for prevention, foster care, adoption, and independent living services. This regulatory action makes changes consistent with the Code of Virginia, including amending the name of the Putative Father Registry to Virginia Birth Father Registry and requiring additional information be added to the registry so that putative fathers can be notified prior to court proceedings for termination of parental rights and adoptions regarding a child that he may have fathered (Chapter 200 of the 2017 Acts of Assembly). Additionally, recent changes to the Code of Virginia require that youth who turn 18 years old while in foster care shall be enrolled in Medicaid provided they do not object and are eligible. They shall also be given the opportunity to participate in a survey to provide feedback regarding the youth's experience while in foster care (Chapter 187 of the 2017 Acts of Assembly). The intent of this action is to make the regulation consistent with the Code of Virginia, and to make any other changes the agency deems necessary after comments and review.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

LDSS-local departments of social services
VDSS-Virginia Department of Social Services

Statement of Final Agency Action

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.

The State Board of Social Services took final action on 22VAC40-201, Permanency Services-Prevention, Foster Care, Adoption and Independent Living, on June 19, 2019.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to the previously reported information.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The state's legal basis for this action is § 63.2-217 of the Code of Virginia that requires the State Board of Social Services to adopt such regulations as may be necessary to carry out the purpose of Title 63.2. This regulatory action is to comply with the 2017 Acts of Assembly Chapter 200 (HB 2216) that amends the name of the Putative Father Registry to the Virginia Birth Father Registry throughout the Code of Virginia. Additionally, the 2017 Acts of Assembly Chapter 203 (SB 1461) and the 2017 Acts of Assembly Chapter 187 (HB 1451) require youth who turn 18 years old in foster care to be enrolled in Medicaid and be provided the opportunity to participate in a survey to provide feedback regarding their experience in foster care. This regulatory action will provide comprehensive and accurate direction regarding these required activities.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The proposed action updates regulation to correspond with the name change to the Virginia Birth Father Registry throughout Title 63.2 of the Code of Virginia and to include the process of registration for the putative father. This regulatory action is integral to Virginia's compliance with current state laws. Changing the name to the Virginia Birth Father Registry will eliminate confusion and better represent the purpose of the registry. The Virginia Birth Father Registry protects the rights of a putative father by providing notification of court proceedings for termination of parental rights and adoption regarding a child that he may have fathered, and potentially giving him an opportunity to be in his child's life. Health insurance is integral in providing for the health, safety and welfare of youth aging out of foster care. The proposed revision to the regulation will ensure compliance with state law and direct the LDSS to enroll these youth in Medicaid upon turning 18 years old. Additionally, the feedback from the survey will be used to strengthen and improve the state's foster care program.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This regulatory action will incorporate technical corrections, language, and processes necessary to ensure consistency with the Code of Virginia and requirements that have been passed into law since the introduction of the current Permanency Services regulation. The amendments to sections 10, 100, and 190 include: changing the name from the Putative Father Registry to the Virginia Birth Father Registry; adding the requirement that youth turning 18 years old in foster care shall be enrolled in Medicaid provided they are eligible and do not object; and, adding the requirement that youth turning 18 years old in foster care be given the opportunity to participate in a survey to provide feedback on their experience in foster care.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

This regulatory action poses no disadvantages to the public or the Commonwealth as the amendments to the Permanency regulation provide for the safety of children who turn 18 years old while in foster care by ensuring that these youth are enrolled in Medicaid and providing an opportunity for these youth to give feedback about their experience in foster care through a survey. Additionally, the proposed regulatory action protects the rights of birth fathers by clarifying the registration timeline for the Virginia Birth Father Registry.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no requirements in this regulatory action that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

There are no changes to the previously-reported information. No other state agencies will be particularly affected.

Localities Particularly Affected

There are no changes to the previously-reported information. This regulation impacts LDSS. LDSS are located statewide and no individual locality will be particularly affected.

Other Entities Particularly Affected

There are no changes to the previously-reported information. This regulation impacts LDSS. LDSS are located statewide and no individual locality will be particularly affected.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

There was no public comment received during the public comment period.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

No changes have been made since the previous stage.

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
10		The Putative Father Registry is defined.	The registry name is changed to the Virginia Birth Father Registry, to be consistent with the Code of Virginia.
100		There is no current requirement that youth in foster care receive Medicaid after they turn 18 years of age. There is not a requirement that youth are surveyed about their foster care experience.	LDSS are required to ensure that foster care youth continue to receive Medicaid after they turn 18 years of age, unless they object or are otherwise ineligible, to be consistent with the Code of Virginia. LDSS are required to provide opportunity for foster care youth to provide feedback about their foster care experience through a survey, consistent with the Code of Virginia.
190		Sets out the circumstances in which a search of the Virginia Putative Father Registry is conducted; who shall request a search; and establishes that the certificate of search and finding is to be filed before adoption or termination of parental rights.	The registry name is changed to the Virginia Birth Father Registry, to be consistent with the Code of Virginia. The purpose of the registry is described to ensure the target population registers. A timely registration is defined, to be consistent with the Code of Virginia.