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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| Agency name | State Board of Social Services |
| Virginia Administrative Code (VAC) citation(s) | 22VAC40-295 |
| Regulation title(s) | Temporary Assistance for Needy Families |
| Action title | Amend Intentional Program Violation Provisions |
| Date this document prepared | June 18, 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 current regulation describes fair hearings and administrative disqualification hearings (ADHs). While those are different types of hearings, the current regulation can be interpreted as meaning fair hearings and administrative hearings are the same. The agency proposes amending 22VA40-295-140 to provide further clarification regarding how the two hearing processes interplay with one another, so there is no misunderstanding about these separate processes.

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.

Pursuant to § 63.2-217 of the Code of Virginia, the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all public assistance programs.

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 purpose of the proposed action is to amend 22VA40-295-140 to provide further clarification for the citizens of Virginia regarding intentional program violations (IPVs) and ADHs in TANF. Safety net programs such as TANF help to protect the safety, health and welfare of eligible citizens. Providing clarification will ensure that the needs and rights of Virginians are met and ensure there is no misunderstanding about the separate processes of fair hearings and ADH hearings. TANF provides essential benefits to low income families and due process is applicable to the termination or reduction of TANF benefits. Both the provision of assistance and the fair hearing process protect the health and welfare of citizens.

For the public and the Commonwealth, this action will not result in any potential issues that need to be addressed as this regulation is clarified.

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.

Currently the regulation could be interpreted to mean that the ADH and fair hearing process are the same, which they are not. Proposed amendments will address ADHs when an individual has committed an IPV and better explain the client's right to appeal an ADH decision to the Circuit Court.

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.

This regulatory change is in an effort to provide clarification to the TANF program regarding IPVs and ADHs. This move will foster consistency and continuity for all Virginians. There is no viable alternative to this action and it does not impact small businesses.

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

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. A panel will not be used in the development of this 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 on this Notice of Intended regulatory action may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Bridget Shelmet, 801 E. Main St, Richmond, VA 23219, by email to bridget.shelmet@dss.virginia.gov, or by fax to (804) 726-7144. 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 panel will not be used and a public hearing will not be held following the publication of the proposed stage of this regulatory action.