



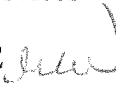
COMMONWEALTH of VIRGINIA

Office of the Attorney General

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TO: DUKE STOREN, Commissioner
Virginia Department of Social Services

FROM: ELLEN FULMER MALENKE 
Assistant Attorney General

DATE: July 12, 2019

SUBJECT: Exempt Regulation Section 22 VAC 40-665 (TANF Transition Child Care)

I am in receipt of the attached regulation. You have asked the Office of the Attorney General to review and determine if the State Board of the Virginia Department of Social Services has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state and federal law.

This regulatory action serves to bring the Child Care Subsidy Program into conformity with § 63.2-6110 of the Code of Virginia, to comply with Chapters 166 and 218 of the 2019 Acts of Assembly. The legislation made transitional child care available to former Virginia Initiative for Employment not Welfare (VIEW) participants enrolled in education and training programs.

It is my opinion that the State Board of DSS has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA") and has not exceeded that authority.

Further, it is my view that this regulation is exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(a). If you have any questions or need additional information about these regulations, please contact me at 786-4856.

cc: Kim F. Piner, Esquire

Attachment

DEPARTMENT OF SOCIAL SERVICES

TANF Transitional Child Care

22VAC40-665-30. Child care subsidy program categories.

Assistance under the Child Care Subsidy Program is provided through the following program categories, to the extent that funding is available:

1. TANF. Child care subsidy and services are made available to recipients of TANF.

TANF child care includes needed child care for:

- a. A TANF-capped child;
- b. A child who receives Supplemental Security Income (SSI) if the parent is on the TANF grant and if the child would have been in the public assistance unit were it not for the receipt of SSI; and
- c. Children who are not in the TANF assistance unit but who are financially dependent upon the parent who is in the TANF assistance unit.

2. Income eligible programs.

- a. Transitional child care. Child care subsidy and services are made available to eligible children of:

(1) formerFormer TANF recipients for up to the 12 months following TANF case closure to support parental employment; and

(2) Former VIEW participants when the individual is enrolled in an accredited public institution of higher learning or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia and is

taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an industry-recognized certification, or license, if the family is found income eligible, and there is a need for child care.

b. Head Start wrap-around child care. Head Start wrap-around child care subsidy and services are made available to eligible Head Start enrolled children. The program is for extended day and extended year child care beyond times covered by federally funded Head Start programs.

c. SNAP child care. Child care subsidy and services are made available to children of parents in Virginia's SNAP Education and Training (SNAPET) program to allow participation in an approved activity.

d. Fee Program child care. Fee child care subsidy and services are made available to children in eligible low-income families who are not receiving TANF or SNAPET and who meet the eligibility criteria for child care.