



townhall.virginia.gov

Final Regulation Agency Background Document

Agency name	Department of Behavioral Health and Developmental Services
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC35-230
VAC Chapter title(s)	Operation of the Individual and Family Support Program
Action title	Amendments to establish criteria and annual funding priorities and to ensure public input.
Date this document prepared	May 14, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 Department of Behavioral Health and Developmental Services (DBDHS) was directed by the 2022 General Assembly within Item 313.NN, of the 2022 *Appropriation Act* (Chapter 2, 2022 Special Session 1 Acts of Assembly) to utilize emergency authority to promulgate regulations that change the current distribution of annual Individual and Family Support Program (IFSP) funds from a 'first-come-first-served' basis to one based on program categories and set criteria. Specifically, DBDHS is authorized to create an annual public input process that shall include a survey of needs and satisfaction in order to establish plans for the disbursement of IFSP funding in consultation with the IFSP State Council. Based on the Council's recommendation and information gathered during the public input period, the department will draft annual funding priorities and program criteria for each of the required program categories and publish them in draft form for public comment and in final form prior to opening the funding opportunity as part of annual IFSP review process. Additionally, the department, based on information gathered through public input and in consultation with the IFSP State Council, shall annually establish eligibility criteria, the

award process, the appeals process, and any other protocols necessary for ensuring the effective use of state funds. The goal of this regulatory action is to facilitate compliance with the U.S. Department of Justice's Settlement Agreement with Virginia (United States of America v. Commonwealth of Virginia, Civil Action No. 3:12cv059-JAG) (<https://dbhds.virginia.gov/doj-settlement-agreement/>). An [emergency regulation](#) became effective on January 19, 2023. A proposed stage action was published on 2/26/2024. This final action is the next step to creating the permanent amendments to Chapter 230.

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.

Council – IFSP State Council.
 DBHDS – Department of Behavioral Health and Developmental Services.
 DD – Developmental disabilities.
 IFSP – Individual and Family Support Program.
 Settlement Agreement – the U. S. Department of Justice's Settlement Agreement with Virginia (United States of America v. Commonwealth of Virginia, Civil Action No. 3:12cv059-JAG).

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.

On May 14, 2024, the State Board of Behavioral Health and Developmental Services approved [this action](#) to move to the final stage to amend the Operation of the Individual and Family Support Program regulations [[12VAC35-230](#)].

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.

This action is brought in compliance with Code of Virginia § 2.2- 4011.B. in accordance the mandate from the 2022 General Assembly within [Item 313.NN.](#) of the 2022 *Appropriation Act* (Chapter 2, 2022 Special Session 1 Acts of Assembly).

The purpose of this regulation is to facilitate compliance with the U.S. Department of Justice's Settlement Agreement with Virginia for the development of a comprehensive and coordinated set of strategies that are designed to ensure that families who are assisting family members with ["developmental disabilities" ("DD")] or individuals with [DD] who live independently have access to person-centered and family-centered resources, supports, services and other assistance. (See [Section II.D.](#)) The program is intended to support the continued residence of each individual with DD on the waiting list for a Medicaid Home and Community-Based Services (HCBS) DD Waiver in the individual's own home or the family home, which includes the home of the principal caregiver.

The court appointed Independent Reviewer has stated that while the Commonwealth continues to make progress, it is not fully meeting requirements related to individual and family supports. (See his [18th](#)

Report to the Court, p.55.) These amendments provide updated formal 'documentation of authority and functioning' for the IFSP funding awards through the use of procedures used by the department for those determinations.

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 2022 General Assembly, within Item 313.NN. of the 2022 *Appropriation Act* (Chapter 2, 2022 Special Session 1 Acts of Assembly), mandated the department to utilize emergency authority to promulgate regulations. Section 37.2-203 of the Code of Virginia authorizes the State Board of Behavioral Health and Developmental Services to adopt regulations that may be necessary to carry out the provisions of Title 37.2 and other laws of the Commonwealth administered by the commissioner and the department. At its meeting on July 13, 2022, the State Board voted to initiate the emergency action and notice of intended regulation for permanent adoption. An [emergency regulation](#) became effective on January 19, 2023. This final action was approved on May 14, 2024.

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 is intended to solve.

These amendments are essential to protect the health, safety, and welfare of individuals with DD who are on the waiting list for a Medicaid Waiver HCBS DD Waiver and who reside in their own or their family homes, which include the home of the principal caregiver. The change from the current distribution of annual funds from a 'first-come-first-served' basis will be to one based on program categories and set criteria that will be more needs-based and that has significant stakeholder input. The department, based on information gathered through public input and in consultation with the IFSP State Council, shall annually establish eligibility criteria, the award process, the appeals process, and any other protocols necessary for ensuring the effective use of state funds. The goal of this regulatory action is to facilitate compliance with the U. S. Department of Justice's Settlement Agreement with Virginia (United States of America v. Commonwealth of Virginia, Civil Action No. 3:12cv059-JAG) and any amendments must remain in alignment as the action moves through the regulatory adoption process.

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.

IFSP program overview and purpose

The Individual and Family Support Program (IFSP) assists individuals on Virginia's Medicaid Home and Community-Based Services (HCBS) DD Waivers Waiting List and their families with accessing short term, person- and family- centered resources, supports, and services. The purpose of the program is to support individuals with DD in living in their own home or family home in the community.

IFSP consists of four components: 1) a funding program, 2) community coordination program, 3) information and referral, and 4) connections to family and peer mentoring supports.

IFSP-Funding Program Background

Since 2013, DBHDS's IFSP Program, through the use of state funds allocated by the Virginia General Assembly, has provided direct financial assistance to Virginians on the Medicaid HCBS DD Waivers waitlist. The assistance supports individuals and their families with the purchase of services or items described in the application and approved by the department. The funding program is restricted to assisting individuals on the DD waiver waiting list who are living in their own home or in their family home per 12VAC35-230-20.

Prioritization of Individuals Seeking Assistance Initial Stakeholder Input

Traditionally, the IFSP both assessed applications and provided assistance to individuals solely on a first-come first-served basis. Per the terms of the Settlement Agreement, DBHDS is required to target assistance to people who are at highest risk of being institutionalized. Therefore, beginning in 2019, the IFSP began engaging with the IFSP State Council, the department's formally identified advisory group on family supports, to establish a list of priorities for the funding program. A key take away from engaging with the state and regional councils is the guiding principle that priority categories should consider both the individual circumstances of the applicant and their family and the type of request.

Review of Existing Measures of Risk and Past IFSP Data

In order to create a framework for identifying and supporting those most at risk of institutionalization, the IFSP established the program's funding categories through discussion with subject matter experts and a review of internally used intake and assessment tools across DBHDS divisions. IFSP also reviewed past IFSP funding outcome data including requested need categories to understand what needs are typically requested and how changes to the program may impact assistance for those needs.

Regulatory Changes

Amendments to this chapter eliminate unnecessary language related to the 'first-come-first-served' funding award process used to date. It makes clear the use of formal procedures for funding awards that detail the criteria for annual awards and that must be reviewed annually, sets out that the IFSP State Council will work in consultation with DBHDS to establish eligibility criteria, the award process, the appeals process, and any other protocols necessary for ensuring the effective use of state funds; that additional stakeholder comment must be sought; and makes clear the following expectations for DBHDS in regard to community coordination:

1. Engage with the public and stakeholders to establish programming that encourages the continued residence of individuals with DD in community settings.
2. Establish the IFSP State Council.
3. Coordinate the development of strategic plans and activities that are consistent with the IFSP goals through the work of the Council.
4. Provide technical assistance to individuals or family members for the purpose of facilitating the purchase services that are intended to enhance or improve an individual's or family's quality of life and promote the independence and continued residence of an individual with DD in each individual's own home or the family home, which include the home of a principal caregiver.

Additionally, amendments make clear the department's responsibility regarding the establishment of procedures for eligibility determination, the award process, appeals process, and any other protocols necessary for ensuring the effective use of state funds. All procedures shall be published in draft form for public comment and in final form prior to opening the funding opportunity.

For each funding period, the department shall develop and publish the following information on the IFSP:

1. Applicant eligibility criteria;
2. A summary of allowable expenditures;
3. Maximum award amount per applicant;
4. Application deadlines;

5. Award notification schedules;
6. Award review criteria; and
7. Requirements for expenditure substantiation.

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.

1) The primary advantage to the public is that those most in need of assistance will be considered based on defined categories of need. Also, the public will have the opportunity to comment annually on draft revisions of funding award procedures. The primary disadvantage to the public of implementing the amended provisions is that individuals on the waiting list for the Medicaid Home and Community-Based Services (HCBS) DD Waivers and their families will have to learn the new procedures for application for funding. Those who previously benefited from the ‘first-come-first-served’ basis potentially may be categorized differently with the new structure. Additionally, a redesigned application portal will be available to the public that is intended to be more user-friendly.

2) The primary advantage to DBHDS and the Commonwealth is the assurance that the funds are distributed in a targeted manner. Also, these changes more thoroughly comply with the requirements of the Settlement Agreement. Though some resources are being used to redesign the portal, there are no disadvantages to the agency or the Commonwealth.

3) A pertinent matter of interest to the regulated community, government officials, and the public is that funding procedures will be published in draft form for public comment and in final form prior to opening the funding opportunity. There are no disadvantages to the public or the Commonwealth as these changes will ensure more public input and more targeted use of state funds.

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 more restrictive.

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 other state agencies affected.

Localities Particularly Affected

There are no localities particularly affected.

Other Entities Particularly Affected

Any individual with a developmental disability (DD) who is on the waiting list for a Medicaid Home and Community-Based Services (HCBS) DD Waiver in his own or the family home, which includes the home of the principal caregiver, and family members of any such individual.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's 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.

Commenter	Comment	Agency response
Mike Rugar	<p>I am concerned that we're asked to vote "yes" on criteria that has not been approved or evidently decided yet. Therefore, I am against this change. Adding "criteria for participation" requires a third party to assess value for submissions, which takes time, adjudication, and picking winners and losers. this adds time to the process, and greater costs which likely have to come out of the program itself.</p> <p>has there been an outcry for this change? I'd suggest that if current criteria for participation is in need of correction, then the application process should be evaluated and then changed. the first-come, first-served method has the advantage of lower bureaucratic overhead. And it appears to be working fine.</p> <p>Even if the application process needs to change, the new process and weighing factors need to be presented for comment, rather than the open ended amendment currently proposed.</p> <p>thank you for the opportunity to comment.</p>	<p>Thank you for your comment. It is true that the first-come, first-served basis was a simpler award process. However, since the 2022 Session of the General Assembly mandated the change in the IFSP funding distribution from a first-come first-served basis to one based on program categories and established criteria, it was implemented via emergency regulation and used for determining IFSP funding for the last two cycles. This change was made to ensure that applicants on the Developmental Disability (DD) Waiver waiting list with the highest needs received funding. The process is based on each individual's priority status on the DD Waiver waiting list and their Critical Needs Summary score. The Priority Status and Critical Needs Summary score is determined through assessment completed by the support coordinator at the applicant's community services board. The process for determining funding approval was streamlined and is outlined in the IFSP Guidelines; any changes to the Guidelines must be put forward in a public comment forum before adoption. The mandate also ensured an annual public input process that includes a survey of needs and satisfaction in order to establish plans for the disbursement</p>

		of IFSP funding in consultation with the IFSP State Council.
Brian Kaman	<p>Hello. I'd like to submit a comment about the appeal process. I was denied funding for IFSP and told to submit an appeal if I wanted to do so.</p> <p>I took the time to submit an appeal and received an email that funds had been exhausted, which is the same reason that I was given initially. It seems like the appeals process is not really an appeal as no further reason was given. I was induced into taking the time to submit an appeal when the agency had no real intention of reviewing my appeal.</p> <p>Please don't offer an appeal process if there isn't really an appeal review.</p>	<p>Thank you for your comment. There is a thorough review of all appeal submissions. The review of the funding determination process for the applicant is to ensure procedures were followed appropriately. If no procedural errors are found in the determination process, the reason for denial remains the same.</p>
Al Carroll	<p>We were on the waiting list for a provider to help our son for literally years. Over two years, and one has yet to come through.</p> <p>We have finally given up in frustration. I'm sure there are many stories like ours.</p>	<p>Thank you for your comment. As these remarks are outside of the scope of the changes to the IFSP regulations, this comment will be documented for future discussion regarding the waiting list.</p>
Cynthia White	<p>Changing the criteria from a first come first served basis to a need based will get more individuals the supports they need to use the funding. The funding should be made available throughout the year especially for the use of respite care.</p>	<p>Thank you for your comment. Increases to the amount of funding in the IFSP program are decided by the General Assembly. Once the Appropriation Act (state budget) is effective, the agency works within a set timeframe to take all mandated steps and distribute the annual allotment in a timely manner.</p>
Mary C Hendrickson	<p>◆?It has been a challenge to find qualified Day Care Facility Programs in the Virginia Beach area. I have found only one however it's a small facility called "Indigo". They would need to hire more qualified staff to take on more young adults that fall between high functioning but do not qualify through the state to work.</p> <p>◆?My son had attended 3 Facilities prior that were horribly run by individuals that want easy adults but do not have the activities that provide sensory stimulation, promote group conversations and assist in teaching them how to be productive in the community. In my opinion those generic facilities are just milking the Medicare Waver. And thus my son was very</p>	<p>Thank you for your comment. These remarks are outside of the scope of the changes to the IFSP regulations This comment will be documented for future discussion regarding the DD service system and the waiting list.</p>

	<p>upsetting and left my son traumatized. Those experiences left a fearful impression that different races were not a positive. This is Not how I grew up from a military household, moving around the US every 2-3 years. I learned that all races are uniquely different and therein lies the beauty of a diversified world.</p> <p>◆?We need more Providers that have Day Care Facilities for the Autism Spectrum of young adults & other high functioning individuals especially those individuals transitioning out of High School.</p> <p>As we know as Patents and have been through the LONG Waiting List on the DD Waiver to get services.</p> <p>◆?We need to have a more solid approach & more options of Quality Providers to choose from to help these young individuals thrive and have a sense of being productive in their communities and increases their desire to keep learning once they have finished High School and are ready to transition.</p> <p>◆?A Transition Program needs to be enacted through Congress in the Virginia Beach area.</p> <p>◆?Parents were promised from High School Teachers & Staff of all the options that were available once our kids have graduated HS. However the Funding & Laws have changed so much that once my son was ready to transition to a work program he was denied the "Right to Work" because of his Seizures. That it would require an assistant near by to keep him on task and or assist in the onset of a seizure. Seizures can be very common in individuals on the Autistic Spectrum Disorder ASD that can manifest at any age.</p> <p>◆?My son has wanted to be a Farmer since he was 7 years old. Now at 23 How can Can We make this happen?</p> <p>◆?There was in 2004 and still is Now a large population of kids, young adults and older on the ASD Spectrum.</p> <p>◆?Many of them are from military families.</p> <p>◆?It was my understanding back in 2010 that if a Military Service member had a Special Needs Child the military would send them to San Diego California or</p>	
--	---	--

	<p>Virginia Beach. And the Military was to provide more Funding for their children to the State of Virginia. ♦?Congress and the State of Virginia has Not provided that funding and have never been reinforced to do so. ♦?Not all families in Virginia Beach are Military. ♦?We need to pressure our now Democrat Senate & House in the State of Virginia to immediately start to implement this Funding from the Military to provide financial support for their own Servicemembers children. ♦?Then the DD Waiver Services Long Waiting List would move Much Faster in getting our kids the help they deserve & need to be functioning, productive & have an overall sense that THEY can achieve their desired career and be a huge part of their Community. They are valuable Human Beings Too! ♦?WE NEED TO RESTRUCTURE THIS PROBLEM and as Most Mom & Dads with Special Needs children and adults are STILL struggling.</p> <p>Thank you for reading, Mary C Hendrickson email: Drsniipm@hotmail.com</p>	
<p>Zain Khan</p>	<p>Greetings,</p> <p>I have applied for my son in the waiver program for development and behavioral health services for over two years. As a concerned mother, I am struggling to find a suitable program for my autistic son who enjoys school and playing outside with his classmates. Since his school ended, he has been feeling down at home due to the disruption in his routine, leading to mood swings and emotional distress. I am looking to explore other options to support my son and get his routine back on track.</p> <p>From, Rashida Khan</p>	<p>Thank you for your comment. These remarks are outside of the scope of the changes to the IFSP regulations. This comment will be documented for future discussion regarding services for children with autism.</p>
<p>Mary Clark</p>	<p>I do not think that the regulations should require that the funds only be used for the specific things that are requested in the application. The process is complicated and, to my knowledge,</p>	<p>Thank you for your comment. in accordance with the mandate for the use of funds by the General Assembly, funds for the IFSP program are targeted in accordance with the terms of the DOJ</p>

	<p>there is no process to make changes to the application request throughout the year. Families are asked to predict needs for the future year which may or may not materialize. That does not mean that they do not need the funds to help the individuals with DD. For example, the family may request funds to enable the individual with DD to attend a specific recreational program in the Spring or Summer, but that program may not be available, or there may be other challenges that come up making attendance impossible. Other more important and critical needs may emerge which will better support the individual's ability to remain in the home. The program should allow for flexibility. As long as the funds are spent for items or on needs that are among those allow under the program, there should be no problem and no need for cumbersome paperwork to amend an application. There should be no need to justify a change which benefits the individual and the family when funds are spent on items or services allowed under the program.</p>	<p>settlement agreement to ensure that funds are used to benefit individuals on the DD Waiver waiting list and fall within the allowable funding categories. If an applicant needs to change what was entered on the original application because that item or service is no longer available, the applicant should contact IFSP. As IFSP funds are a public resource, all expenditures must be justified and documented. IFSP will approve or deny the change via email and maintain documentation of the change connected to that application.</p>
<p>Andrea Crockett</p>	<p>Our son has been on the wait-list for a few years now. He is priority but since he has us , we are told he really isn't priority. He would have been on it for over 10 yrs if it wasn't for the state's requirement for a psychologist to label him mentally retarded. Wasn't that a hurdle after the fact (several evaluations during his early school years and not one Psychologist used that term specifically). He is severe ... totally care dependent, non verbal, non ambulatory, and seizures all day, every day. He ages out of public schools in May. We both need to work to make ends meet and we don't know who or how that will happen. With so much taken in taxes by the state ...income, no tax breaks on our property nor on our adapted van to transport him still we get no real help for him nor us as aged caregivers. There has been budget surpluses and yet the slots are so very few and the wait lists getting longer and longer. I guess when caring for him disables or kills us then he may be really a priority then?! Let's think preventative</p>	<p>Thank you for your comment. These remarks are outside of the scope of the changes to the IFSP regulations. This comment will be documented for future discussion regarding the DD waiver waiting list and funding for services.</p>

	<p>and not reactive. Legislation speaks of helping families but as one can look at the stats it is all talk. Will our comments be read? Please listen to the families in need.</p>	
<p>Anonymous</p>	<p>In the past 3 years alone, cumulative inflation is over 20%. This represents a real burden to families caring for a disabled loved one. The wait time for aid in Virginia is years -- actually more than a decade for most people on the wait list. The unfortunate reality is that most disabled individuals in-need will not receive state support, all while our economy flourishes and the Northern Virginia region ranks among the wealthiest locations in the country. More needs to be done to ensure every qualified family/disabled individual is provided some form of assistance. But, above and beyond, the most pressing matter today and for the next decade -- will be making sure that every legislator, executive, and administrator of this state works tirelessly to ensure that state funds are not diverted from disabled citizens to pay for illegal immigrants. Under no circumstances should state funds be drained to support those flooding in from around the world. Because those who will be left out will most certainly be the disabled population who cannot advocate for themselves.</p>	<p>Thank you for your comments regarding individuals with disabilities and their families. These remarks are outside of the scope of the changes to the IFSP regulations.</p>
<p>Steven R Jones</p>	<p>In regard to changes to the IFSP funding criteria, the Commonwealth of Virginia should take a heard look at this system and say why do we have this "band aid" funding when the priority should be to get all 16,000 individuals off the waitlist and provide the services they need to have productive lives. Instead, the state created this tiny funding for severely impacted individuals to receive a sliver of the funds the Commonwealth should be providing. Should the IFSP funding method be changed? Yes. Ideally it should be completely eliminated with the Commonwealth providing the needed and necessary funding for every individual in need.</p> <p>My daughter has been on the wait list for a DD waiver (currently on CCC+</p>	<p>Thank you for your comments. These remarks are outside of the scope of the changes to the IFSP regulations. This comment will be documented for future discussion regarding funding the DD Waiver wait list. Please note that Governor Youngkin proposed, as part of the Right Help Right Now initiative, to eliminate the Priority 1 Waitlist; that is in the pending budget.</p>

	<p>waiver) well into the second decade. Is the IFSP funding better than nothing, marginally yes. However, it does nothing to solve our assist my daughter (27) to improve her quality of life or her interactions with the outside world. Instead as a result, my wife (63) and myself (64) and the primary caregivers. We have a modest income and are currently in good health for our age.</p> <p>However, how long does the Commonwealth expect us to fulfill the role of untrained and aging care providers? All at the expense of services that could enrich our daughter's life. At the rate the Commonwealth is making progress (despite being found guilty of underfunding services for its most vulnerable population and now operating under a federal court order – that should not be removed) either one or both of us will die caring for our daughter before she receives services. This is shameful for a state as wealthy as Virginia. The Governor is promoting his tax breaks, building a sports complex for a Billionaire and playing silly social agenda games. All of this instead of working to fund the services for over 16,000 citizens of the Commonwealth want and desperately need.</p> <p>Should the funding for the IFSP program be changed – Yes it should be eliminated as the DD and other waivers should be fully funded – So there would be no need for the IFSP. Instead of fussing with the IFSP program, when will those in the administration work on the bigger problem of eliminating the waiting list for waivers in the Commonwealth? Now that would be a move in the proper direction. Don't waste time on changing IFSP funding – Use the time to eliminate the need for this program!</p>	
<p>Robin Mays</p>	<p>How long Virginia? How long will you continue to put the most vulnerable at the bottom of the funding list? Because of federal oversight Virginia has had to change their ways but Will failing miserably. With decent budget overages</p>	<p>Thank you for your comment. These remarks are outside of the scope of the changes to the IFSP regulations. This comment will be documented for future discussion regarding provider rates.</p>

	<p>there is no excuse for not funding all children and adults in need for support on the DD Waiver. The pay for people to help these individuals at home and in the community is far below a living wage. Housing is horrid for this population and with current increases in the cost of living, no doubt it will get worse. Please step up and take care of what needs taking of now!</p>	
Will Oldaker	<p>As parents of a special needs child my wife and I understand and have always operated on the assumption that it is our responsibility to take care of him. That said it is a blessing to receive this type of funding and if the state is going to offer it it should be available to every family that needs it not first come first serve whoever gets their name in the hat first. I understand that there is always the concern for abuse of the system but in this instance I think it is best to help families first, make it easy to get that help and then take care of any regulatory issues. Let's default to funding everybody that needs it and fixing any broken parts that may arise later instead of making it harder on people who need it now because some legislators want to drag their feet on helping those most in need. Thank you for your time.</p>	<p>Thank you for your comment. The program is wholly funded by state General Fund dollars and any increases must be approved annually by the state legislature. The funding allocation process distributes fifty percent of the funds to individuals or families on the DD Waiver waiting list with Priority 1 status, prioritizing those with the highest Critical Needs Summary scores. The remaining fifty percent of funds are awarded to applicants holding Priority 2 or 3 waitlist status through a randomization process until the funds are exhausted. In cases where demand exceeds available funds, only a portion of applicants will receive assistance. This change was made to ensure that applicants on the DD Waiver waiting list with the highest needs received funding.</p>
Catherine Shaffer	<p>We moved here in May 2021. We have been trying to get our son involved with the services he needs. It has been very difficult to negotiate the system. And understand what I need to do. If an advocate could be appointed to assist in the process, that would be great. I am listing Hope Enterprises in Williamsport, PA, because they, and their services were extremely helpful with parents like myself to navigate the red tape.</p>	<p>Thank you for your comment. These remarks are outside of the scope of the changes to the IFSP regulations. This comment will be documented for future discussion of support coordination.</p>
Lana Ambler	<p>Why was age of the parents removed from the criteria for the waiting lists? My husband and I are 80 years old. We have been on the waiting list for years. Our child was priority one, but was removed to priority 2. Virginia is an overly frugal state when it comes to helping people with disabilities. The legislature has never cared to spend any surplus on the disability community. The state each year seems</p>	<p>Thank you for your comment. These remarks are outside of the scope of the changes to the IFSP regulations. This comment will be documented for future discussion of funding for the system.</p>

	<p>to have generous rainy day funds that sit unused, some of which could be used for the waiver waiting list. Also, the state portions of the salaries that medicaid pays to workers in the agencies are woefully inadequate and should be raised.</p>	
<p>Anonymous</p>	<p>VA - one of the wealthiest state, how long should people with disabilities wait to receive the basic services they need? You understand the struggles these citizens are going through every day only if you have loved ones who live with disability or if you are the one who is living with it. Please please ...this should be a priority for everyone!</p>	<p>Thank you for your comment. These remarks are outside the scope of the changes to the IFSP regulations. This comment will be documented for future discussion regarding funding for the service system.</p>
<p>Tamara Carter</p>	<p>The IFSP first come first serve rule is absolutely ridiculous. 1,000\$ is a joke for parents who care for a child with disabilities. The Day Support services that my daughter needs cost \$150.00 - \$365.00 a day! Both my husband and I work, but nobody can afford to pay this much for summer breaks and this 1,000.00\$ will pay for only 3 days of care if you can even get the funds! Last year we did not get anything.</p> <p>My husband and I are both basically nurses to our daughter. We are exhausted, there is no relief for caregivers unless the child has a DD waiver. It is a huge toll on our marriage, finances and mental health! Both my husband and I need to die or lose our sanity before my daughter can be awarded a DD waiver and receive the services that she desperately needs. In summer, she has nowhere to go. Regular summer camps where normal children socialize, make friends and live meaningful lives do not accept my daughter due to her extensive needs with daily activities. So she must stay at home and be depressed and isolated all summer. She aged out of regular daycare as well. So now my husband and I have to decide who will quit their job and stay home with my daughter. We have been on DD waiver waiting list for about 10 years, and I was just told by our case manager that there are homeless children and abused children who have priority and there is a very low chance that my daughter will get it. Are</p>	<p>Thank you for your comment. These remarks are outside the scope of the changes to the IFSP regulations. This comment will be documented for future discussion regarding funding for the service system.</p>

	<p>you serious?! Do I really need to become homeless or go insane and start abusing my child before she could get the services that she needs?! Virginia, you are a joke!</p> <p>Being disabled in Virginia or caring for a loved one with disability means that you don't deserve or have the right to be happy and live good, productive, and fulfilling life. Hit the rock bottom and even then there is no guarantee to get help! What a shame!</p>	
<p>Tamara Carter</p>	<p>Get rid of the IFSP funds for people on the DD waiver waiting list and give more DD waiver slots instead! The \$500.00 - 1,000.00 per family is like a tear in the ocean! It is a very silly way of handling funds and money! The community with disabled children will benefit more from more waiver slots than these bandages that a state puts on a gushing wound! I am just absolutely disgusted by Virginia, do better for families with children with disabilities! A state this wealthy does not take care of their vulnerable citizens!</p> <p>Day support services for a child with disabilities cost \$9,000-20,000 per summer. What am I going to do with \$500.00!!! I cannot even get that much sometimes. We did not get anything last year.</p>	<p>Again, thank you for your taking the time to comment. These remarks are outside the scope of the changes to the IFSP regulations. This comment will be document for future discussion regarding funding for the service system.</p>

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.*

There are no changes since the previous stage.

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.*

Explanation: As mentioned in the [proposed stage agency background document](#), information in the regulation was moved in the emergency regulation to a 'guidelines' document and referenced in the amended language for the emergency action. As part of the Code-mandated authority of the office, prior to publication as an emergency regulation, the Virginia Registrar acted to make a technical change of the Guidelines from a guidance document to a document incorporated by reference (DIBR). This requires that the guidelines be filed with the body of the regulation text. However, *because of the requirements for an annual review process, there is no way to annually review, and when needed update, a DIBR through regulatory action in such a tight timeframe.* Nothing about the process as adopted in the emergency regulation would change, but changes made in the proposed stage 'softening' the language to reference the award 'procedures' without naming the guidelines document allows the department to meet the annual review requirements. The annual development process and public comment requirement is unchanged; drafts will be posted on the agency website and linked to a general notice on Town Hall with a public comment forum, and the final version will be published on the website and in a general notice when ready before the next funding cycle. **The Guidelines are now listed as a guidance document (DD07) and is unchanged from the DIBR attached to the emergency regulation. DD07 will be the vehicle moving forward and the DIBR will be removed.**

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
10		<p>"Developmental disability" or "DD" means a severe, chronic disability of an individual that:</p> <ol style="list-style-type: none"> 1. Is attributable to a mental or physical impairment or combination of mental and physical impairments; 2. Is manifested before the individual attains age 22; 3. Is likely to continue indefinitely; 4. Results in substantial functional limitations in 	<p>New definitions are added for clarity:</p> <ul style="list-style-type: none"> ▪ "Custodial family member" is added to make clear which family member is appropriate to apply, or assist an individual in applying, for funds. <p><u>"Custodial family member" means a family member who has primary authority to make all major decisions affecting the individual and with whom the individual primarily resides.</u></p> <ul style="list-style-type: none"> ▪ "Developmental disability" was updated in the Code of Virginia in 2015 (37.2-100). <p><u>"Developmental disability" means a severe, chronic disability of an individual that :</u></p> <ol style="list-style-type: none"> 1. <u>Is attributable to a mental or physical impairment, or a combination of mental and physical impairments, other than a sole diagnosis of mental illness;</u> 2. <u>Is manifested before the individual reaches 22 years of age;</u> 3. <u>Is likely to continue indefinitely;</u> 4. <u>Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for</u>

		<p>three or more of the following areas of major life activity: (i) self-care; (ii) receptive and expressive language; (iii) learning; (iv) mobility; (v) self-direction; (vi) capacity for independent living; and (vii) economic self-sufficiency; and</p> <p>5. Reflects the individual's need for a combination and sequence of special, interdisciplinary or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated. (42 USC § 15002)</p> <p>"Family member" means an immediate family member of an individual receiving services or the principal caregiver of that individual. A principal caregiver is a person who acts in the place of an immediate family member, including other relatives and foster care providers, but does not have a proprietary interest in the care of the individual receiving services. (§ 37.2-100 of the Code of Virginia)</p>	<p><u>independent living, or (vii) economic self-sufficiency; and</u></p> <p><u>5. Reflects the individual's need for a combination and sequence of special interdisciplinary or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.</u></p> <p><u>An individual from birth to age nine, inclusive, who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without meeting three or more of the criteria described in subdivisions 1 through 5 of this definition if the individual, without services and supports, has a high probability of meeting those criteria later in life.</u></p> <p>(No change; showing for context with added term above, "custodial family member.")</p> <p><u>"Individual and Family Support Program" or "IFSP" means an array of individualized person-centered and family-centered resources, supports, items, services, and other assistance approved by the department that are intended to support the continued residence of individuals with developmental disabilities who are on the waiting list for a Medicaid Home and Community-Based Services Developmental Disability Waiver ("Medicaid HCBS DD Waiver") in each individual's own home or the family</u></p>
--	--	---	--

		<p>"Individual and Family Support" means an array of individualized items and services that are intended to support the continued residence of an individual with intellectual or developmental disabilities (ID/DD) in his own or the family home.</p> <p>"Intellectual disability" or "ID" means a disability, originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two</p>	<p><u>home, which includes the home of the principal caregiver.</u></p> <ul style="list-style-type: none"> ▪ This definition expands on the IFS definition using language from the Settlement Agreement to reflect current practice and to be in line with the Settlement Agreement: <u>"Individual and Family Support Program State Council" or "IFSP State Council" means an advisory group of stakeholders selected by the department that shall provide consultation to the department on creating a family support program intended to increase the resources and supports for individuals and families and promote community engagement and coordination. The IFSP State Council shall include individuals with DD and family members of individuals with DD.</u> ▪ One definition is removed because it is not used in the regulation; the definition of 'developmental disability' was updated in the Code of Virginia in 2015 (37.2-100) (ID is a type of DD); and related, three of the existing home and community-based waivers were redesigned in 2021 combining the target populations of individuals with intellectual disabilities and other developmental disabilities. The phrase 'a Medicaid Home and Community-Based Services (HCBS) DD Waiver' is used to capture the correct waivers regardless of the specific title. <p>"Intellectual disability" or "ID" means a disability, originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean; and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills. (§ 37.2-100 of the Code of Virginia)</p>
--	--	---	---

		<p>standard deviations below the mean; and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills. (§ 37.2-100 of the Code of Virginia)</p>	
<p>20</p>		<p>A. The Individual and Family Support Program assists individuals with intellectual disability or developmental disabilities and their family members to access needed person-centered and family-centered resources, supports, services and other assistance as approved by the department. As such, Individual and Family Support Program funds shall be distributed directly to the requesting individual or family member or a third party designated by the individual or family member.</p> <p>B. The overall objective of the Individual and Family Support Program is to support the continued residence of an individual with intellectual or developmental disabilities in his own home or the family home, which include the home of a principal caregiver.</p> <p>C. Individual and Family Support Program funds shall not supplant or in any way limit the availability of services provided through a Medicaid Home and Community-Based Waiver,</p>	<ul style="list-style-type: none"> ▪ References to intellectual disability are removed, language is streamlined and clarified to be in line with the Settlement Agreement, and the roles the Council and the guidelines are inserted: <p>A. The Individual and Family Support Program assists individuals with intellectual disability or developmental disabilities and their family members to access needed person-centered and family-centered resources, supports, services, and other assistance as approved by the department. As such, Individual and Family Support Program funds shall be distributed directly to the requesting individual or family member or a third party designated by the individual or family member. B. The overall objective of the Individual and Family Support Program is to support the continued residence an individuals with intellectual or developmental disabilities in his <u>each individual's</u> own home or the family home, which include <u>includes</u> the home of a principal caregiver.</p> <p><u>B. The department shall administer the IFSP funding awards directly or through a third party designated by the department to administer all or part of the IFSP, based on annual funding priorities and program criteria developed by the department in consultation with the department's IFSP State Council.</u></p> <p>C. Individual and Family Support Program IFSP funds shall be distributed directly to the requesting individual or custodial family member or a third party designated by the individual or custodial family member.</p>

		Early and Periodic Screening, Diagnosis and Treatment, or similar programs.	IFSP funds shall not supplant or in any way limit the availability of services provided through a Medicaid Home and Community-Based Waiver, Early and Periodic Screening, Diagnosis and Treatment, or similar programs.
30		(Repealed; replaced with Section 35.) Program eligibility requirements Eligibility for Individual and Family Support Program funds shall be limited to individuals who are living in their own or a family home and are on the statewide waiting list for the Intellectual Disability (ID) Medicaid Waiver or the Individual and Family Developmental Disabilities Support (IFDDS) Medicaid Waiver and family members who are assisting those individuals.	
31 (new)			<ul style="list-style-type: none"> ▪ These new changes clarify the overall structure for the work of the department: <p><u>Community coordination.</u> The department shall:</p> <ol style="list-style-type: none"> 1. <u>Ensure an annual public input process that encourages the continued residence of individuals on the waiting list for a Medicaid HCBS DD Waiver in community settings and includes a survey of needs and satisfaction.</u> 2. <u>Establish the IFSP State Council.</u> 3. <u>Develop, in coordination with the IFSP State Council, a strategic plan that is consistent with these regulations and the purpose of the IFSP and that is updated as necessary as determined by the department.</u> 4. <u>Provide technical assistance to individuals or family members to facilitate their access to covered services and supports listed in 12VAC35-230-55, that are intended to enhance or improve the individuals' or family members' quality of life and promote the independence and continued residence of an individual with DD in that individual's own home</u>

			<p>or the family home, which includes the home of a principal caregiver.</p>
35 (new)		(Previously Section 30.)	<ul style="list-style-type: none"> ▪ Replaces Section 30. Language moved from 30 now 35 A; new clarifying language regarding public input and the generic reference to Waivers (see above); puts the regulation in line with the Settlement Agreement; the roles of the Council and the annual review process are inserted. (Note in the project, all language shows as entirely new due to formatting requirements; existing language is shown in this table.) <p><u>Program eligibility requirements and policies.</u></p> <p><u>A. Eligibility for IFSP funds shall be limited to individuals who are living in their own home or a family home and are on the statewide waiting list for a Medicaid HCBS DD Waiver and their custodial family members who are assisting those individuals.</u></p> <p><u>B. The department, based on information gathered through public input and in consultation with the IFSP State Council, shall annually establish eligibility criteria, the award process, the appeals process, and any other protocols necessary for ensuring the effective use of state funds. All procedures used by the department for determining funding awards shall be published annually in draft form for public comment and in final form prior to opening the funding opportunity.</u></p> <p><u>C. For each funding period, the department shall base funding awards on the following published information:</u></p> <ol style="list-style-type: none"> <u>1. Criteria for prioritized funding categories;</u> <u>2. A summary of allowable expenditures;</u> <u>3. Application deadlines; and</u> <u>4. Award notification schedules.</u> <p><u>D. All procedures used by the department for funding awards shall be reviewed annually.</u></p>
40		(Repealed; replaced with Section 45.) Program implementation. A. Individual and Family Support Program funds	

		<p>shall be limited by the amount of funds allocated to the program by the General Assembly.</p> <p>Department approval of funding requests shall not exceed the funding available for the fiscal year.</p> <p>B. Based on funding availability, the department shall establish an annual individual financial support limit, which is the maximum annual amount of funding that can be provided to support an eligible individual during the applicable fiscal year.</p> <p>C. Individual and Family Support Program funds may be provided to individuals or family members in varying amounts, as requested and approved by the department, up to the established annual individual financial support limit.</p> <p>D. On an annual basis, the department shall announce Individual and Family Support Program total funding availability and the annual individual financial support limit for the applicable fiscal year. This announcement shall include a summary of covered services, the application, and the application review criteria.</p> <p>E. Individuals and family members may submit applications for Individual and Family Support Program funding as needs arise throughout the year. Applications shall be considered by the department on a first-come, first-served basis until the annual allocation appropriated to the program by the General Assembly</p>	
--	--	--	--

		<p>for the applicable fiscal year has been expended. F. Individuals and their family members may apply for Individual and Family Support Program funding each year and may submit more than one application in a single year; however, the total amount approved during the year shall not exceed the annual individual financial support limit.</p>	
<p>45 (new)</p>		<p>(Previously Section 40.)</p>	<ul style="list-style-type: none"> ▪ *Replaces from Section 40. Changes emphasize the public input process, remove the funding limit and ‘first come first served’ structure, insert the focus on prioritized funding categories as established in the annual awards procedures, and move any other information in deleted text to be addressed elsewhere in the revised regulation or shall be addressed in the procedures. (Note in the project, all language shows as entirely new due to formatting requirements; existing language is shown in this table.) <p>A. Individual and Family Support Program <u>IFSP</u> funds shall be limited by the amount of funds allocated to the IFSP by the General Assembly. <u>The</u> Ddepartment approval of funding requests shall not exceed the funding available for the fiscal year. <u>Based on information gathered through relevant data and public input, and in collaboration with the IFSP State Council, the department shall establish annual funding categories.</u></p> <p>B. Based on funding availability, the department shall establish an annual individual financial support limit, which is the maximum annual amount of funding that can be provided to support an eligible individual during the applicable fiscal year.</p> <p>C. Individual and Family Support Program <u>IFSP</u> funds may be provided to individuals or <u>custodial</u> family members in varying amounts, as requested and approved determined by the department’s <u>annually prioritized</u></p>

			<p>funding categories, up to the established annual individual financial support limit.</p> <p>D. On an annual basis, the department shall announce Individual and Family Support Program total funding availability and the annual individual financial support limit for the applicable fiscal year. This announcement shall include a summary of covered services, the application, and the application review criteria.</p> <p>E. Individuals and family members may submit applications for Individual and Family Support Program funding as needs arise throughout the year. Applications shall be considered by the department on a first come, first served basis until the annual allocation appropriated to the program by the General Assembly for the applicable fiscal year has been expended.</p> <p>F. Individuals and their family members may apply for Individual and Family Support Program funding each year and may submit more than one application in a single year; however, the total amount approved during the year shall not exceed the annual individual financial support limit.</p>
50		<p>(Repealed; replaced with Section 55.)</p> <p>Covered services and supports.</p> <p>Services and items funded through the Individual and Family Support Program are intended to support the continued residence of an individual in his own or the family home and may include:</p> <ol style="list-style-type: none"> 1. Professionally provided services and supports, such as respite, transportation services, behavioral consultation, and behavior management; 2. Assistive technology and home modifications, goods, or products that directly support the individual; 3. Temporary rental assistance or deposits; 	

		<p>4. Fees for summer camp and other recreation services; 5. Temporary assistance with utilities or deposits; 6. Dental or medical expenses of the individual; 7. Family education, information, and training; 8. Peer mentoring and family-to-family supports; 9. Emergency assistance and crisis support; or 10. Other direct support services as approved by the department.</p>	
55 (new)		(Previously Section 50.)	<ul style="list-style-type: none"> ▪ Replaces Section 50; removes language and instead focuses on the three categories of covered services and points to the annual awards process and procedures for any list of fundable services and items. <p>Services and items funded through the <u>Individual and Family Support Program IFSP as published annually in accordance with this chapter</u>, are intended to support the continued residence of an individual in <u>his that individual's own or the family home and may include be approved in the following three main categories: (i) safe community living, (ii) improved health outcomes, and (iii) community integration:</u></p> <ol style="list-style-type: none"> 1. Professionally provided services and supports, such as respite, transportation services, behavioral consultation, and behavior management; 2. Assistive technology and home modifications, goods, or products that directly support the individual; 3. Temporary rental assistance or deposits; 4. Fees for summer camp and other recreation services; 5. Temporary assistance with utilities or deposits; 6. Dental or medical expenses of the individual; 7. Family education, information, and training;

			<p>8. Peer mentoring and family-to-family supports; 9. Emergency assistance and crisis support; or 10. Other direct support services as approved by the department. <u>No services or items shall be funded by the IFSP if not listed in the department's procedures or if covered by another entity.</u></p>
60		<p>(Repealed; replaced with Section 65.) Application for funding. A. Eligible individuals or family members who choose to apply for Individual and Family Support Program funds shall submit a completed application to the department. B. Completed applications shall include the following information: 1. A detailed description of the services or items for which funding is requested; 2. Documentation that the requested services or items are needed to support the continued residence of the individual with ID/DD in his own or the family home and no other public funding sources are available; 3. The requested funding amount and frequency of payment; and 4. A statement in which the individual or family member: a. Agrees to provide the department with documentation to establish that the requested funds were used to purchase only approved services or items; and b. Acknowledges that failure to provide documentation that the requested funds were used to purchase only approved services or items may result in recovery of such funds</p>	

		<p>and denial of subsequent funding requests. C. The application shall be signed by the individual or family member requesting the funding.</p>	
65 (new)		(Previously Section 60.)	<ul style="list-style-type: none"> ▪ Replaces Section 60; removes the requirement to submit receipts but requires that any such documentation be available on request; changes the information about need to an attestation rather than more formal documentation (the only requirement is if the individual is on the waiting list); adds “custodial” where appropriate before “family member.” (Note in the project, all language shows as entirely new due to formatting requirements; existing language is shown in this table.) <p>A. Eligible individuals or <u>custodial</u> family members who choose to apply for Individual and Family Support Program <u>IFSP</u> funds shall submit a completed application to the department.</p> <p>B. Completed applications shall include the following information:</p> <ol style="list-style-type: none"> 1. A detailed description of the services or items for which funding is requested; 2. Documentation Acknowledgment that the requested services or items are needed to support the continued residence of the individual with ID/DD in <u>his</u> <u>that individual’s own home</u> or the family home and no other public funding sources are available; 3. The requested funding amount and frequency of payment; 4. A statement in which the individual or <u>custodial</u> family member: <ol style="list-style-type: none"> a. Agrees to provide <u>to</u> the department, if requested, with documentation to establish that the requested funds were used to purchase only <u>approved</u> services or items <u>described in the application and approved by the department</u>; and b. Acknowledges that failure to provide documentation, <u>when requested</u>, that the requested funds <u>applied for</u> were used to purchase only <u>approved</u> services or items <u>described in the application and approved by the</u>

			<p>department may result in recovery of such funds and denial of subsequent funding requests.</p> <p>C. The application shall be signed by the individual or <u>custodial</u> family member requesting the funding.</p>
70		<p>(Repealed; replace with Section 75.)</p> <p>Application review criteria.</p> <p>Upon receipt of a completed application, the department shall:</p> <ol style="list-style-type: none"> 1. Verify that the individual is on the statewide ID or IFDDS Medicaid Waiver waiting list; 2. Confirm that the services or items for which funding is requested are eligible for funding in accordance with <u>12VAC35-230-50</u>; 3. Determine that the services or items for which funding is requested are needed to support the continued residence of the individual with ID/DD in his own or the family home; 4. Determine that other public funding sources have been fully explored and utilized and are not available to purchase or provide the requested services or items; 5. Evaluate the cost of the requested services or items; and 6. Consider past performance of the individual and family members regarding compliance with this chapter. 	
75 (new)		(Previously Section 70.)	<ul style="list-style-type: none"> ▪ Replaces Section 70; removes unnecessary language regarding the application process and review as such detail will be included in the annual funding process, and updated for the new process; requires the department to produce two reports, one of basic data and information post-funding season,

			<p>and one on a summary of accomplishments towards meeting stated goals. (Note in the project, all language shows as entirely new due to formatting requirements; existing language is shown in this table.)</p> <p>Application Review Criteria Reporting. Upon receipt of a completed application, the department shall:</p> <ol style="list-style-type: none"> 1. Verify that the individual is on the statewide ID or IFDDS Medicaid Waiver waiting list; 2. Confirm that the services or items for which funding is requested are eligible for funding in accordance with 12VAC35-230-50; 3. Determine that the services or items for which funding is requested are needed to support the continued residence of the individual with ID/DD in his own or the family home; 4. Determine that other public funding sources have been fully explored and utilized and are not available to purchase or provide the requested services or items; 5. Evaluate the cost of the requested services or items; and 6. Consider past performance of the individual and family members regarding compliance with this chapter. <p><u>A. For each funding period, the department shall develop and publish a summary that details the total dollar amount of funded awards, a summary of expenditure requests, the number of applications received, and the number of applications and individuals approved for receipt of IFSP funds.</u></p> <p><u>B. The department, with input from the IFSP State Council, shall develop an annual summary of accomplishments toward meeting the goals of the Virginia State Plan to Increase Individual and Family Supports.</u></p>
80		<p>(Repealed; replaced with Section 85.) Funding decision-making process. A. Applications may be approved at a reduced</p>	

	<p>amount when the amount requested exceeds a reasonable amount as determined by department staff as being necessary to purchase the services or items.</p> <p>B. Applications shall be denied if the department determines that:</p> <ol style="list-style-type: none">1. The service or item for which funding is requested is not eligible for funding in accordance with 12VAC35-230-50;2. The request exceeds the maximum annual individual financial support limit for the applicable fiscal year;3. Other viable public funding sources have not been fully explored or utilized;4. The requesting individual or family member has not used previously received Individual and Family Support Program funds in accordance with the department's written notice approving the request or has failed to comply with these regulations; or5. The total annual Individual and Family Support Program funding appropriated by the General Assembly has been expended for the applicable fiscal year. <p>C. The department shall provide a written notice to the individual or family member who submitted the application indicating the funding decision.</p> <ol style="list-style-type: none">1. Approval notices shall include:<ol style="list-style-type: none">a. The services, supports, or other items for which funding is approved;b. The amount and time frame of the financial allocation;	
--	---	--

		<p>e. The expected date that the funds should be released; and d. Financial expenditure documentation requirements, and the date or dates by which this documentation shall be provided to the department. 2. For applications where funding is denied or approved at a reduced amount, the department's notice shall state the reason or reasons why the requested services, supports, or other items were denied or were approved at a reduced amount and the process for requesting the department to reconsider its funding decision.</p>	
<p>85 (new)</p>		<p>(Previously Section 80.)</p>	<ul style="list-style-type: none"> ▪ Replaces Section 80; streamlined language. (Note in the project, all language shows as entirely new due to formatting requirements; existing language is shown in this table.) <p>A. Applications may be approved at a reduced amount when the amount requested exceeds a reasonable amount as determined by department staff as being necessary to purchase the services or items. B. Applications shall be denied if the department determines that: 1. The <u>the</u> service or item for which funding is requested is not eligible for funding in accordance with 12VAC35-230-50 65, other public funding sources are available, or the total annual IFSP funding appropriated by the General Assembly has been expended for the applicable fiscal year; 2. The request exceeds the maximum annual individual financial support limit for the applicable fiscal year; 3. Other viable public funding sources have not been fully explored or utilized; 4. The B. Additionally, applications for IFSP funds may be denied if the requesting individual or custodial family member has not used previously</p>

		<p>received Individual and Family Support Program funds in accordance with the department's written notice approving the request or has failed to comply with these regulations; or.</p> <p>5. B. The total annual Individual and Family Support Program IFSP funding appropriated by the General Assembly has been expended for the applicable fiscal year.</p> <p>C. The department shall provide a written notice to the individual or <u>custodial</u> family member who submitted the application indicating the funding decision, <u>including the reason for denial of funding, if applicable.</u></p> <p>1. Approval notices shall include:</p> <ul style="list-style-type: none"> a. The services, supports, or other items for which funding is approved; b. The amount and time frame of the financial allocation; c. The expected date that the funds should be released; and d. Financial expenditure documentation requirements, and the date or dates by which this documentation shall be provided to the department. <p>2. For applications where funding is denied or approved at a reduced amount, the department's notice shall state the reason or reasons why the requested services, supports, or other items were denied or were approved at a reduced amount and the process for requesting the department to reconsider its funding decision.</p>
90		<ul style="list-style-type: none"> ▪ One word addition to specify "custodial" family members as those to be involved with the application process. Other clarifying use of the term 'commissioner.' <p>A. Individuals or <u>custodial</u> family members who disagree with the determination of the department may submit a written request for reconsideration to the commissioner, or his <u>the commissioner's</u> designee, within 30 days of the date of the written notice of denial or approval at a reduced amount.</p> <p>B. The commissioner, or his <u>the commissioner's</u> designee, shall provide an opportunity for the person</p>

			<p>requesting reconsideration to submit for review any additional information or reasons why the funding should be approved as originally requested. C. The commissioner, or his <u>the commissioner's designee</u>, after reviewing all submitted materials shall render a written decision on the request for reconsideration within 30 calendar days of the receipt of the request and shall notify all involved parties in writing. The commissioner's decision shall be binding.</p>
100		<p>D. Failure to use funds in accordance with the department's written notice or provide documentation that the funds were used to purchase only approved services or items may result in recovery of such by the department.</p>	<ul style="list-style-type: none"> ▪ Amendments point to the annual funding procedures for specification on how funds may be spent; changes documentation to 'if requested' as in another section; and also, points to the applicant's description of services in order to simplify the review process. <p>D. Failure to use funds in accordance with the department's written notice <u>IFSP procedures for funding awards</u> or provide documentation, <u>if requested</u>, that the funds were used to purchase only approved <u>services or items as described in the application and approved by the department</u> may result in recovery of such by the department.</p>
110		<p>Funding through the Individual and Family Support Program shall be terminated when the individual is enrolled in the ID or IFDDS Medicaid Waiver or if approved funds are used for purposes not approved by the department in its written notice. Any funds approved, but not released, will be forfeited in such circumstances.</p>	<ul style="list-style-type: none"> ▪ Clarifying edits. Funding through the Individual and Family Support Program <u>IFSP</u> shall be terminated when the individual is enrolled in the a ID or IFDDS <u>Medicaid HCBS DD Waiver</u>, if the individual is <u>found to be no longer eligible to be on a waiting list for a Medicaid HCBS DD Waiver in accordance with 12VAC30-122-90 and any appeal has been exhausted</u>, or if approved funds are used for purposes not approved by the department in its written notice. <u>In such circumstance, Any any funds approved, but not yet released, will be forfeited in such circumstances shall not be disbursed .</u>