



COMMONWEALTH of VIRGINIA

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TO: JIM ROTHROCK, Commissioner
Virginia Department of Aging and Rehabilitative Services

FROM: ERIC J. REYNOLDS *EJR*
Assistant Attorney General

DATE: May 2, 2017

SUBJECT: Relocation of existing regulation on income disregard for the Auxiliary Grant Program (new section 22VAC30-80-80)

I am in receipt of the attached regulation regarding the Auxiliary Grant Program. You have asked the Office of the Attorney General to review and determine if the Virginia Department of Aging and Rehabilitative Services ("DARS") has the statutory authority to promulgate the regulation and if the regulation comports with applicable state and federal law.

This regulation disregards foreign government restitution payments to Holocaust survivors when determining eligibility of an applicant for the Auxiliary Grant Program. It is being relocated from Agency 40 - the Department of Social Services ("DSS") - under Title 22 of the Virginia Administrative Code to Agency 30 (DARS) to conform to Chapter 803 of the 2012 Acts of Assembly which merged the Department for Aging, the Department of Rehabilitative Services, and adult services and adult protective services of DSS into DARS. No substantive changes to the regulation have been made.

It is my opinion that the Department of Aging and Rehabilitative Services 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.

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)(3). If you have any questions or need additional information about these regulations, please contact me at (804) 786-3450.

cc: Kim F. Piner, Esquire
Attachment