

# Virginia Regulatory Town Hall Agency Background Document Proposed Regulation

**Agency Name:** Virginia Department of Social Services  
**VAC Number:** 22 VAC 40-295-10  
**Regulation Title:** Temporary Assistance for Needy Families  
**Action Title:** Establishment of proposed regulation  
**Date:** August 18, 1999

## Summary:

This regulation provides the rules for qualifying for Temporary Assistance for Needy Families (TANF) assistance. The regulation explains what persons are required to participate together as an assistance unit, resource criteria, income eligibility criteria, processing time frames, advance notice requirements, procedures for intentional program violations, the collection of overpaid TANF assistance, emergency assistance, and criteria for determining the availability of child care.

## Basis:

Pursuant to §63.1-25 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.1-25>), the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (<http://thomas.loc.gov/cgi-bin/query/z?c104:H.R.3734.ENR:>) transformed the welfare system from a mandated system into a block grant with state flexibility. These regulations are necessary for the state to regulate its state TANF program.

## Purpose:

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 replaced the Aid to Families with Dependent Children (AFDC) Program with the TANF block grant. This block grant considerably reduces federal regulation of cash assistance and employment services programs, leaving much discretion to states. Under the old AFDC program, Virginia simply implemented federal rules with little discretion as to how Virginia could adapt the program to fit its particular client base. However, within certain guidelines, Virginia is now free to design a TANF program that is best suited to the needs of the population in this state. We are in the process of repealing existing TANF regulations. Necessary language from these regulations is included in the proposed regulation. Therefore, much of the proposed regulation comes from already existing regulations. This regulation will serve as a comprehensive program regulation.

This regulation will improve the efficient and economical performance of social service departments by considerably reducing extraneous work involved in determining eligibility for TANF. Processing procedures are being changed to mirror the Food Stamp Program in instances such as application processing time frames, effective date, eligibility redetermination cycles, and reporting requirements. Using the same administrative procedures will reduce the administrative burden by having one procedure rather than two when processing the same case. Other ineffective eligibility criteria have been removed to provide a more streamlined and efficient process.

**Substance:**

The TANF regulation will require minor parents to be included in the assistance unit of the minor parent's parent (22 VAC 40-295-30). Also, the regulation will set the number of days a child can be absent from a home and still retain eligibility for TANF. We will also define good cause absences for this absence (22 VAC 40-295-40).

To streamline the eligibility determination without increasing the number of eligible clients, several changes are being made with regard to counting income (22 VAC 40-295-60). The eligibility determination process will consist of a net income screening rather than a gross income and net income screening. The income disregard will be standardized so that it does not fluctuate as is done presently. Income of students under 18 will be disregarded. The method of counting self-employment income will be simplified.

The area of resources will be streamlined (22 VAC 40-295-50). The resource limit will be increased to \$2,000, consistent with the food stamp program. In addition, the following items will be disregarded: real property, burial plots, bona fide funeral arrangements, and insurance policies. Property transfer restrictions will be removed. Finally, consistent with food stamp policy, lump sums will be considered a resource rather than income.

The TANF-Emergency Assistance (TANF-EA) program will be made a component of the Diversionary Assistance Program. This will make administration simpler by having one program rather than two, and will still retain the intent of TANF-EA (22 VAC 40-295-170).

PRWORA forbids a state from sanctioning a TANF recipient for refusal to work if that recipient has a child under the age six and the recipient has a demonstrated inability to obtain needed child care. To this end, federal regulations at 45 C.F.R. 261.56 require states to define "appropriate child care," "reasonable distance," "unsuitability of informal care," and "affordable child care arrangements." This regulation contains these definitions. (22 VAC 40-295-180)

There are also administrative areas that will be altered to make the processing of applications more efficient. Much of the streamlining will be gained by aligning requirements with the food stamp program. Since the same eligibility worker is processing the same information for the same client, administrative savings will occur by mirroring food stamps with respect to the application processing time frame (22 VAC 40-295-70), the effective date of an application (22 VAC 40-295-70), the eligibility redetermination cycle and expiration of benefits (22 VAC 40-295-80), reporting requirements and action on changes (22 VAC 40-295-90), repayment of overpayments (22 VAC 40-295-130), advance notice requirements (22 VAC 40-295-100), and intentional program violation policy (22 VAC 40-295-160).

**Issues:**

These regulations are designed to make the TANF program more streamlined for ease of administration. As a federal program, TANF was a rule-based system designed primarily to ensure delivery of benefits to eligible families. The program is now focused on an outcome of self-sufficiency, and the eligibility rules are being changed to reflect this change in goals. Many inefficient eligibility rules are being revised or deleted, and processes are being streamlined. The primary advantages to the public and the Commonwealth will be a program that is more focused on the goal of self-sufficiency for recipients, and that is more efficient. The public will have a streamlined and less bureaucratic process of accessing benefits. The public will benefit by a more efficient government department and a greater emphasis on employment, which will increase the number of families employed and decrease the families that receive public assistance.

**Alternatives:**

Consideration was given to keeping the minor parent assistance unit policy the same, always requiring the minor parent to have a separate assistance unit from the minor parent's parent, or requiring the minor parent to be a part of her parent's assistance unit. Current policy is complex and possibly subjective and was rejected on that basis. Requiring the minor parent to have a separate case triggered the time limit for the minor and also absolved the minor parent's parent of any responsibility, and was rejected for these reasons.

PRWORA allows states to determine the number of days a child may be absent from a home and retain eligibility for TANF. PRWORA set the time period at 45 days, but allows states to change this time period from 30 to 180 days. PRWORA also allows states to define good cause reasons for absences. Consideration was given to keeping the 45 day requirement, lengthening the requirement, or reducing the requirement. The 30 day requirement was chosen since assistance is granted on a monthly basis. Choosing a longer period would allow assistance to be paid to a child that no longer lived in the household. To allow for reasonable extensions to this period, good cause reasons are being allowed for hospitalization, education or training, or a visit.

Consideration was given to changing the calculation of benefits. However, the only mechanism that was not costly was to eliminate the gross income screening. Elimination of the gross income screening will remove one step of the income eligibility determination process without increasing the number of eligible families.

Participants not involved in the VIEW program receive earned income disregards that fluctuate over time. An earned income disregard that is consistent with that offered in the food stamp program was decided upon as it is cost neutral, eases the administrative burden on agencies and clients, and allows a reasonable work incentive.

Consideration was given to retaining current student earnings disregards, expanding them, or reducing them. The option chosen was to totally disregard student earnings. This encourages employment and the development of work skills for a child that is also in school. Due to the very small numbers of employed students, this will have a negligible cost impact, while reducing the administrative burden.

As PRWORA allows total state control with respect to resource policy, the entire resource policy was examined. Consideration was given to retaining resource disregards, reducing resource disregards, or expanding resource disregards. To further the goals of efficient government and self-sufficiency of customers, both retaining current disregards and reducing disregards were rejected. Expanding disregards will allow recipients to build resources for self-sufficiency and will reduce administrative burden by removing rules that have little or no impact. Resources were disregarded that were not likely to be easily liquidated and that had a negligible impact on the caseload.

Consideration was given to changing the overall resource limit by various methods. It was decided to make the resource limit compatible with the level set in the food stamp program, both for administrative simplicity and to set the level at one which recognizes the need to maintain basic resource levels without increasing caseloads.

Lump sum policy was changed for compatibility with food stamp policy for a more realistic approach and for administrative simplicity.

The TANF-EA program was examined for current applicability. Virginia's diversionary assistance program is more comprehensive and flexible than the TANF-EA program. The TANF-EA program will now be a component of the diversionary assistance program. Limitations on funding have been broadened so that within limits, emergency needs can be met, rather than having payments limited to essential household equipment. Criteria for payment during an energy shortage were removed.

Consideration was given to making the definitions regarding child care availability determined by local agencies to allow for differences in local conditions, such as reasonable distance to child care, that may vary widely from locality to locality. This approach was rejected and the proposed definitions were derived to closely reflect current policy regarding arranging child care.

The overall area of program administration was examined with a primary goal to reduce bureaucratic measures and freeing more time for workers to spend helping recipients find work. Procedural changes were made to eliminate duplicate efforts by making rules mirror those found in the food stamp program.

#### **Public Comment:**

One comment was received during the NOIRA comment period which suggested that clients wishing to appeal an adverse action be allowed to request such an appeal verbally. Currently, TANF recipients must request appeals in writing. However, the food stamp program allows verbal requests. The agency agrees with this suggestion, and the proposed regulation permits verbal requests for appeals.

#### **Clarity of the Regulation:**

The Department of Social Services, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

**Periodic Review:**

The Department of Social Services will review the regulation to determine if it should be continued, amended, or terminated. These regulations are aimed at streamlining and simplifying the TANF Program as well as focusing on strengthening the family and encouraging self-sufficiency. These regulations will be reviewed to determine if further simplification is needed and if any changes are necessary that will strengthen TANF families. Such review will be initiated by July 1, 2003, or three years after the effective date of this regulation, whichever is earlier.

**Fiscal Impacts:**

The changes proposed in this regulation will result in no additional cost to the state or localities. The increased benefit cost of \$860,432.40 will be funded from federal funds (TANF block grant). No individuals or businesses will be affected by this regulation.

**Agency:** Virginia Department of Social Services

**Regulation Title:** 22 VAC 40-295-10 et. seq.

**Temporary Assistance for Needy Families (TANF)**

Summary

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