



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: Karin Clark
Virginia Department of Social Services

FROM: Jennifer C. Williamson
Senior Assistant Attorney General

DATE: April 29, 2019

SUBJECT: State Response When a Local Department of Social Services Fails to Provide Services; 22VAC40-677

I am in receipt of the attached regulation, which you have asked the Office of the Attorney General to review to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the specified regulation and whether the specified regulation comports with applicable state law.

Pursuant to Va. Code § 63.2-217, the State Board is required to promulgate regulations as may be necessary or desirable to carry out the purposes of Title 63.2 of the Code of Virginia. Consequently, it is my opinion that the State Board has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 14 (2018) (amended) and the State Board has not exceeded that authority.

If you have any questions, please feel free to call me at 225-3197.

Attachment

DEPARTMENT OF SOCIAL SERVICES

Establish Regulation for State Oversight of Local Departments of Social Services

CHAPTER 677

STATE OVERSIGHT OF A LOCAL SOCIAL SERVICES DEPARTMENT THAT FAILS TO
PROVIDE SERVICES

22VAC40-677-10. State response to when a local department of social services fails to provide services.

A. Each county and city must provide public assistance and social services in accordance with the provisions of Subtitles II (§ 63.2-500 et seq.) and III (§ 63.2-900 et seq.) of Title 63.2 of the Code of Virginia. If any county or city, through its appropriate authorities or officers fails, refuses, or is unable to provide public assistance or social services in accordance with the Code of Virginia, and with appropriate proceedings by the Board of Social Services as directed by § 63.2-408 of the Code of Virginia, the Commissioner of the Department of Social Services shall have the authority, [to the extent allowed by federal and state law,] to direct and oversee all programs set forth in Subtitles II and III for that particular county or city, including to provide for the payment of public assistance and expenditures for social services and administration.

B. The commissioner may also withhold from any county or city the entire reimbursement for administrative expenditures or any part thereof for the period of time such locality fails to operate public assistance programs or social service programs in accordance with state laws and regulations or fails to provide the necessary staff for the implementation of such programs.

C. The commissioner shall at the end of each month file with the State Comptroller and with the local governing body of such county or city a statement showing all disbursements and

expenditures, including administrative expenditures, made for and on behalf of such county or city, and the State Comptroller shall from time to time as such funds become available deduct from funds appropriated by the Commonwealth, in excess of requirements of the Constitution of Virginia, for distribution to such county or city amounts required to reimburse the Commonwealth for expenditures incurred under the provisions of this section.

D. In consultation with the county or city, the commissioner shall develop a transition plan that sets the conditions under which the responsibility to direct and oversee the programs is transferred back to the county or city.

E. The commissioner shall report quarterly to the State Board of Social Services and to the local board of social services on the status of services and expenditures in the city or county as well as the progress toward developing and meeting the conditions of the transition plan.