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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Board of Social Service
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-880
VAC Chapter title(s)	Child Support Enforcement Program
Date this document prepared	December 7, 2023

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*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

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 or 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.

Section 63.2-217 of the Code of Virginia states that the State Board of Social Service shall adopt regulations, not in conflict with Title 63.2, as may be necessary or desirable to carry out the purpose of the title, which includes child support enforcement under Chapter 19. In addition, §§ 63.2-1914, 63.2-

1918 and 63.2-1946 of the Code of Virginia provide the Board with authority to adopt regulations related to specific aspects of the child support enforcement program.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

The agency considered making changes to internal policy and procedure; however, retaining the regulation is necessary for provision of services. Removing content would reduce the agency's ability to enforce several functions with which it is tasked as well as reduce public transparency.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and provide the agency's response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

There were no comments received during the public comment period that ended 9/4/2023. No advisory group was formed to assist in the periodic review.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation is necessary for the protection of welfare because it provides clarity and transparency regarding the services provided by the agency. There are pending actions to update Chapter 880: Action 5858 and Action 6187. Pending Action 5858 amends a section on administrative deviation from the child support guideline. That action makes several technical improvements including clarifying the criteria for administrative deviation, amendments to the language of section 240 of the regulation providing direction regarding imputation of income and consideration of additional factors when imputing income. Pending action 6187 adds new sections to codify family engagement services and makes supporting amendments regarding family engagement case management services. Both pending actions address necessary changes. Otherwise, the regulation is clearly written as it provides details and procedures families may need regarding the services provided by the Division. The review included a study of whether the regulation is clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

Considering the result of the periodic review, the agency recommends no additional changes.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The regulations provide clarity for the public regarding services provided, how the Division prioritizes cases, what factors can be considered for deviation from the child support guidelines, and other important topics. The regulation does not duplicate or conflict with any federal or state law. Pending action 5858 updates 22VAC40-880-240 to be in alignment with 45 C.F.R. 302.56(c)(1) detailing the several factors considered when imputing a noncustodial parent's income.

Pending action 6187 creates 22VAC40-880-800 and 22VAC40-880-810 to ensure there is an authorizing regulation describing use of Family Engagement Services.

There were no complaints or comments concerning the regulation from the public during the public comment period.

The regulation reduces complexity by providing needed clarifications. The Division works to make the program accessible for small businesses through a customer service center and online resources.

The regulation does not overlap, duplicate, or conflict with federal or state law or other regulation.

The Board evaluated the regulation in 2019 to amend section 240, "Administrative Deviation from the Child Support Guideline". The amendment allowed the Department of Social Services (Department) to issue an administrative support order based on an agreement of the parents. Recent technological changes have shaped Division processes and procedures; as a result, the pending actions already cover necessary updates due to the issuance of other regulations and/or statutes, and modern technology. Current economic conditions, however, do not require a change in the regulation. While the Child Support Guidelines Review Panel periodically reviews the guidelines for determining the appropriate dollar amount of monthly child support payments, guideline changes are codified in statute, not in the regulation.

The Board's decision will minimize the economic impact of the regulation on small businesses. Eliminating the regulation would cause greater uncertainty in the Division's use of statutory mechanisms and increase the burden for small businesses.