



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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TO: MARGARET SCHULTZE, Commissioner
Virginia Department of Social Services

FROM: ELLEN FULMER MALENKE
Assistant Attorney General 

DATE: March 31, 2016

SUBJECT: New Regulation Section - 22VAC40-325-20 (Fraud Reduction/Elimination Effort)

I am in receipt of the attached regulations regarding the Fraud reduction/elimination effort program. You have asked the Office of the Attorney General to review and determine if the State Board of the Virginia Department of Social Services has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state and federal law.

This regulation is adding language and modifying some of the existing language to this Section - 22 VAC 40-325-20 - to include methodology related to reimbursements local DSS agencies can receive for conducting fraud prevention, detection and investigation activities consistent with requirements of federal regulations, the Code of Virginia and the regulation itself.

It is my opinion that the State Board of DSS 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 not exempt from but is subject to the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(a). If you have any questions or need additional information about these regulations, please contact me at 786-4856.

cc: Kim F. Piner, Esquire
Attachment