



townhall.virginia.gov

Fast-Track Regulation Agency Background Document

| | |
|---|---|
| Agency name | State Board of Social Services |
| Virginia Administrative Code (VAC) Chapter citation(s) | 22VAC40-295 |
| VAC Chapter title(s) | Temporary Assistance for Needy Families |
| Action title | Amend Temporary Assistance for Needy Families |
| Date this document prepared | 8/8/2024 |

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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Section 10, Definitions, references the Virginia Department of Social Services (VDSS) Child Day Care policy in the two definitions, "Affordable Child Care Arrangements," and "Unsuitability of informal child care." The entire VDSS Child Day Care policy manual is included in the regulation as a document incorporated by reference (DIBR).

In 2021, administration of the Child Care Program moved from VDSS to the Virginia Department of Education (VDOE). This regulatory action will replace references to the VDSS Child Day Care policy

manual, with the VDOE Child Care Subsidy Guidance Manual, in the above definitions. Also, the updated references will identify the specific sections of the VDOE manual that are applicable, rather than the entire contents of the manual. The applicable sections of the VDOE guidance manual will replace the VDSS manual as the DIBR in the regulation, reducing the number of requirements.

Acronyms and Definitions

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

TANF means the Temporary Assistance for Needy Families program.
VDSS means the Virginia Department of Social Services
VDOE means the Virginia Department of Education
DIBR means document incorporated by reference

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Board of Social Services approved the action to amend 22VAC40-295, TANF, on December 11, 2024.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

The regulatory change is a decision of the State Board of Social Services, in keeping with Governor Youngkin’s Executive Order 19 (2022). Executive Order 19 directs state agencies to achieve a 25% reduction in regulatory requirements by the end of 2025. Based on this directive, the agency identified portions of 22VAC40-295 for reduction. The regulatory reductions are expected to be non-controversial, because they reduce the regulatory burden without changing the substance 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 and 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 places responsibility on the State Board of Social Services to make rules and regulations necessary to carry out the purpose and intent of the Title 63.2.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The TANF Program provides cash assistance to eligible needy families that include a minor child living with a parent or caretaker relative. It is an essential safety net to protect the welfare of citizens. The rationale for the changes to the regulation are to make it reflective of current practice, incorporate the correct DIBR for transparency and reduce requirements.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The definition of "Affordable Childcare Arrangements" is changed to remove the reference to the Virginia Department of Social Services Child Care Services policy (Volume VII, Section II, Chapter D, Revised February 2000) replace it with appendices E., F., and G. of the VDOE Child Care Subsidy Program Guidance Manual.

The definition of "Unsuitability of Informal Child Care" is changed to remove reference to the Virginia Department of Social Services Child Day Care Services policy and replace it with Section 5.2.A. of the VDOE Child Care Subsidy Program Guidance Manual.

In the DIBR section of the regulation, the Virginia Department of Social Services Child Care Services policy (Volume VII, Section II, Chapter D, Revised February 2000) is replaced with VDOE Child Care Subsidy Program Guidance Manual, Section 5.2.A. and appendices E., F., and G.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

Amending the two definitions allows for the elimination of several current requirements, which serves as an advantage to the agency and the Commonwealth. It eliminates the need for time and effort by staff to ensure the state complies with the unnecessary requirements. Changing the regulation is advantageous to the public as it will ensure the regulations are reflective of current practice, so program rules are transparent to them. There are no disadvantages to the agency, Commonwealth, or the public.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

Other state agencies will not be particularly affected by the regulatory changes.

Localities Particularly Affected

Local departments of social services will not be particularly affected by the regulatory changes.

Other Entities Particularly Affected

No other entities will be particularly affected by the regulatory changes.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

| | |
|--|--|
| <p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources | <p>There are no projected costs, savings, fees or revenues for VDSS resulting from amending the definitions and updating the DIBR.</p> |
| <p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of onetime versus on-going expenditures.</p> | <p>There are no projected costs, savings, fees or revenues for other state agencies.</p> |
| <p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p> | <p>The amended definitions and DIBR ensure the regulation are current and understandable.</p> |

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

| | |
|---|---|
| <p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p> | <p>There are no projected costs, savings, fees or revenues for localities.</p> |
| <p>Benefits the regulatory change is designed to produce.</p> | <p>The amended definitions and DIBR ensure the regulation are current and understandable.</p> |

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

| | |
|--|--|
| <p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p> | <p>No other entities will be affected.</p> |
| <p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <ul style="list-style-type: none"> a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. | <p>No other entities will be affected.</p> |

| | |
|---|---|
| <p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements. | <p>There are no projected costs as no other entities will be affected.</p> |
| <p>Benefits the regulatory change is designed to produce.</p> | <p>The amended definitions and DIBR ensure the regulation are current and understandable.</p> |

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

There are no alternatives to the regulatory change. The action will improve clarity and reduce regulatory burden, in keeping with EO 19 (2022).

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

This regulatory action has no impact on small business. Pursuant to Executive Order 19 (2022) and Executive Directive Number One (2022), agencies were directed to reduce unmandated regulations by 25

percent to reduce the significant burden on Virginia's citizens caused by such regulations. There are no alternative regulatory methods to achieve this.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Virginia Department of Social Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Mark Golden, 5600 Cox Rd. Glen Allen, VA, 23060, (804) 726-7385, mark.golden@dss.virginia.gov. To be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

| Current chaptersection number | New chaptersection number, if applicable | Current requirements in VAC | Change, intent, rationale, and likely impact of new requirements |
|-------------------------------|--|--|--|
| 10 | N/A | “Affordable child care arrangements” means the cost of the child care is less than or equal to the payment amounts specified in the Virginia Department of Social Services Child Care Services policy (Volume VII, Section II, Chapter D, Revised February 2000). The VDSS Social Services Child Care Services policy is a DIBR. | The definition of “affordable child care arrangements” will be updated to remove reference to the VDSS document and replace with reference to appendices E, F, and G. of the VDOE Child Care Subsidy Program Guidance Manual. The new definition will reduce the number of applicable requirements and ensure the regulation is current and understandable. |
| 10 | N/A | “Unsuitability of informal child care” means the child care arrangement does not meet the requirements for relative care in the Virginia Department of Social Services Child Day Care Services policy. | The definition of “unsuitability of informal child care” will be updated to remove reference to the VDSS document, and replace with reference to Section 5.2, A. of the VDOE Child Care Subsidy Program Guidance Manual. The new definition will reduce the number of applicable requirements and ensure the regulation is current and understandable. |
| DIBR | N/A | The VDSS Child Care Services Policy, in entirety, is incorporated by reference. | The correct document, the VDOE Child Care Subsidy Program Guidance Manual, will replace the VDSS document as the DIBR. Only the applicable sections of the VDOE document are incorporated. |

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

| New chaptersection number | New requirements | Other regulations and law that apply | Intent and likely impact of new requirements |
|---------------------------|------------------|--------------------------------------|--|
| | | | |
| | | | |

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but *changes have been made* since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

| Emergency chaptersection number | New chaptersection number, if applicable | Current <u>emergency</u> requirement | Change, intent, rationale, and likely impact of new or changed requirements since emergency stage |
|---------------------------------|--|--------------------------------------|---|
| | | | |
| | | | |