



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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TO: DUKE STOREN, Commissioner, Virginia Department of Social Services
FROM: ELLEN R. FULMER, Senior Assistant Attorney General 
DATE: July 10, 2026
SUBJECT: Final Exempt Regulation – 22VAC40-411 (Amend General Relief to align with 2026 legislation)

I am in receipt of the attached regulation. 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 amendments to the regulation comport with the applicable state and federal laws.

This regulatory action allows local departments of social services to pay the reasonable funeral expenses of a decedent who was a recipient of social services or Supplemental Security Income (SSI). This is an optional program for local departments and a new component of the General Relief Program giving local departments legal basis to provide financial assistance, subject to the availability of funding, when a qualified individual dies without resources or family support to cover burial costs.

It is my opinion that the State Board of DSS has the authority to promulgate this regulation, and that in so doing the State Board does not exceed its authority. Further, it is my view that this initial regulation is exempt from the procedures of Article 2 of the APA pursuant to the directive from the General Assembly in 2026 Acts of the Assembly, Ch. 843. If you have any questions or need additional information about these regulations, please contact me at 786-4856.

cc: Kim F. Piner, Esquire

Attachment

Department of Social Services

Amend General Relief Regulation for 2026 Legislation

22VAC40-411-230. Burial Assistance.

Subject to the availability of funding, a local department may provide burial assistance to a decedent who was a recipient of public assistance or Supplemental Security Income at the time of their death. The local department must indicate in their General Relief Plan the maximum amount of assistance available and any additional eligibility criteria required for their locality.