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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department for Aging and Rehabilitative Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22 VAC 30-80
<b>Regulation title(s)</b>	Auxiliary Grants Program
<b>Action title</b>	Amend Auxiliary Grant (AG) Regulations
<b>Date this document prepared</b>	July 21, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Subject matter and intent

*Please describe briefly the subject matter, intent, and goals of the planned regulatory action.*

The intent of the proposed action is to (1) add information about third-party payments to the regulation (2) clarify requirements for assisted living facilities to implement third-party payments and (3) ensure third-party payments are applied appropriately as a payment source. The proposed action will ensure that regulations comport with § 51.5-160 (formerly § 63.2-800) of the Code of Virginia, which was amended during the 2012 General Assembly session. A regulatory action was started after the 2012 session, but authority for the Auxiliary Grant Program was moved from the Department of Social Services to the Department for Aging and Rehabilitative Services in 2013. Therefore the regulatory action, which had not reached the final stage, was withdrawn.

## Legal basis

*Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

The legal basis for this regulatory action is § 51.5-160 of the Code of Virginia, which authorizes the Commissioner of the Department for Aging and Rehabilitative Services to adopt regulations for the administration of the auxiliary grants program. In addition, § 51.5-131 of the Code of Virginia authorized the Commissioner of the Department for Aging and Rehabilitative Services to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by the Department.

## Purpose

*Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.*

Implementing third-party payments will contribute to the health, safety, welfare and quality of life of AG participants residing in an Assisted Living Facility or Adult Foster Care homes because it will permit family members or others to provide goods and services needed by residents but not covered by Auxiliary Grant payments.

There are no known potential issues that need to be addressed as the regulation is developed.

## Substance

*Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

This provision will add a new section to the regulation, which will include language to address third-party payments. New content will define third-party payments and address documentation for these payments as well as permitted uses of third-party payments. New language will also clarify what services and goods providers are required to provide under the Auxiliary Grant Program.

## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.*

No alternatives were considered as this action is necessary to ensure compliance with Code changes that took effect July 1, 2012. There is no cost to small businesses.

**Public participation**

*Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to **Tishaun Harris Ugworji, 8004 Franklin Farms Drive, Richmond, VA 23229, (804) 662-9531, [Tishaun.harrisugworji@dars.virginia.gov](mailto:Tishaun.harrisugworji@dars.virginia.gov)**

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

**Periodic review/small business impact review announcement**

*If you wish to use this NOIRA to announce a periodic review (§ 2.2-4017 & EO-17 (2014)) and a small business impact review (§ 2.2-4007.1) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete this section.*

In addition, pursuant to Executive Order 17 (2014) and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.