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## Final Regulation Agency Background Document

<b>Agency name</b>	Department for Aging and Rehabilitative Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	22VAC30-130
<b>VAC Chapter title(s)</b>	Adult Services Standards
<b>Action title</b>	Establish Adult Services Standards
<b>Date this document prepared</b>	May 5, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.*

The intent of the proposed action is to adopt a new regulation addressing the provision of services by local departments of social services (LDSS) to adults with an impairment. The new Adult Services (AS) regulation include definitions, principles inherent in the provision of AS, the process for client intake and service delivery, descriptions of the types of services that may be provided, eligibility for services, and LDSS responsibilities.

### 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.*

APS – Adult Protective Services

AS-Adult Services  
DARS-Department for Aging and Rehabilitative Services  
DSS – Department of Social Services  
LDSS-Local department of social services

**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 Commissioner of the Department for Aging and Rehabilitative Services (DARS) approved 22VAC30-130, Adult Services Standards, on May 5, 2020.

**Mandate and Impetus**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

The intent of the proposed action is to adopt a new regulation addressing the provision of services by LDSS to adults with an impairment. This regulatory action was originally initiated in 2011 when the Adult Protective Services (APS) Division was part of the Department of Social Services (DSS). The regulatory action was started in response to the impending repeal of an outdated DSS regulation, "Family-Based Social Services." The Family-Based Social Services regulation was eventually repealed in November 2012.

As the AS regulation did not reach the final stage when the APS Division relocated to the DARS in July 2013, the State Board of Social Services withdrew the prior action, as the State Board of Social Services no longer had authority for the provision of AS in the Commonwealth.

**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 51.5-145 of the Code of Virginia gives DARS the responsibility for the planning and oversight of AS. These services are to be delivered by the LDSS as set out in Article 1 (63.2-1600 et seq.) of Chapter 16 of Title 63.2 and pursuant to regulations and subject to the oversight of the Commissioner of DARS. Section 63.2-1600 of the Code of Virginia authorizes the provision of home-based services including the eligibility for such services pursuant to regulations promulgated by the Commissioner of DARS. In addition, § 51.5-131 of the Code of Virginia authorizes the Commissioner of DARS to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by DARS.

**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's intended to solve.*

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This regulation will describe the provision of services to adults with impairment, as there is currently no regulation that specifically addresses this issue. Many services provided by LDSS AS workers ensure the safety of older adults and individuals with disabilities by helping prevent adult abuse, neglect, and exploitation from occurring or recurring.

These services also promote the well-being of adults by strengthening natural support systems, including family supports, that enable adults to live in community-based settings for as long as possible. The regulation will outline the principles and philosophy of AS and underscore the importance of an adult's right to self-determination and independence.

This regulatory action will ensure that the regulation content is clearly written. Clarity in regulation content is essential to ensuring that the individual's health and safety needs are most appropriately met.

**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.*

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This new regulation will include definitions of terms used in the regulation, the principles inherent in the provision of AS, intake services, individuals to be served, service eligibility determination, and types of services that may be provided.

In addition, the AS regulation will clarify the need for the development of service plans when AS are provided to adults and other responsibilities of the LDSS.

**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.*

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(1) The regulation describes service provision and ensures that LDSS address the needs of older individuals and adults with an impairment.

(2) The regulation content clarifies but does not increase LDSS staffs' responsibilities. Much of the regulatory language existed in a regulation that was repealed in 2012. Several sections directly refer to Code of Virginia requirements to which LDSS currently adhere. Additionally, the AS standards addressed in this regulatory action have been part of DARS guidance for several years.

(3) The regulation language describes assistance available to older adults and adults with an impairment, their families, and adults' other support systems.

The regulatory action poses no disadvantages to the public or the Commonwealth.

**Requirements More Restrictive than Federal**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

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There are no changes to the information previously submitted.

**Agencies, Localities, and Other Entities Particularly Affected**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

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There are no changes to the information previously submitted.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.*

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DARS received no public comments on these proposed regulations.

**Detail of Changes Made Since the Previous Stage**

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

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There were no changes to the text since the previous stage was published in the Virginia Register of Regulations.

**Detail of All Changes Proposed in this Regulatory Action**

*List all changes proposed in this action and the rationale for the changes. 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. Explain the new*

requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
10			The section defines terms used in the provision of adult services. The requirements will have minimal impact on LDSS and state staff.
20			The section describes intake, the first step in accessing services and supports for the adult. The requirements will have minimal impact on LDSS and state staff.
30			The section lists activities or services provided by LDSS to adults such as screening for Medicaid Long term Services and Supports, assisted living facility assessments, home-based services, and review of annual reports by guardians of incapacitated persons. The financial categories of universal access, income maintenance, and eligibility based on income are also discussed. The requirements will have minimal impact on LDSS and state staff.
40			The section describes eligibility determination processes, including financial and functional eligibility. The application of the financial categories are also discussed. The requirements will have minimal impact on LDSS and state staff.
50			The section states the requirement for LDSS workers to develop a service plan for particular types of cases. The service plan describes activities and supports that will be provided to or arranged for the adult and progress towards meeting the service plan goals and objectives. The requirements will have minimal impact on LDSS and state staff.
60			The section states the responsibilities of the worker to follow state law, regulations and program guidance, including when it is appropriate to close a case. The requirements will have minimal impact on LDSS and state staff.