



Virginia
Regulatory
Town Hall

Emergency Regulation Agency Background Document

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-685
Regulation Title:	Home Energy Assistance Program
Action Title:	Establish Home Energy Assistance Program
Date:	April 17, 2002

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

House Bill 2473, which was enacted during the 2001 session of the Virginia General Assembly, directs promulgation of an emergency regulation to establish the Home Energy Assistance Program. These emergency regulations are to take effect within 280 days. House Bill 2473 establishes a Home Energy Assistance Program and creates a Home Energy Assistance Fund to assist low-income Virginians in meeting their residential energy needs. Low-income households spend a large percentage of their income on residential energy. Data captured by the Virginia Energy Assistance Program reveals that 75 percent of the households receiving assistance through the Low Income Home Energy Assistance Program (LIHEAP) in Virginia spend in excess of 50 percent of their income on home energy. The Home Energy Assistance Program

could provide additional assistance to low-income households in a time of escalating energy prices and the uncertain effects of a deregulated market.

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.

Pursuant to §63.1-25 of the Code of Virginia (<http://leg1.state.va.us/cgi-in/legp504.exe?000+cod+63.1-25>), the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. The 2001 session of the Virginia General Assembly, directed promulgation of an emergency regulation to establish the Home Energy Assistance Program (Chapter 676, 2001 Acts of Assembly).

An assurance memo from the Office of the Attorney General assuring the State Board of Social Services' authority to promulgate this regulation as a emergency is attached.

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

This regulation establishes the Home Energy Assistance Program and creates the Home Energy Assistance Fund; authorizes the Department to receive and disburse monies from the Fund; provides a financial resource for low-income families having difficulty meeting their residential energy costs; and provides an opportunity for coordinated efforts between public agencies, private utility service providers, charitable and community groups, and individuals seeking to assist low-income families with their residential energy needs.

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

There are no alternatives. This regulatory action is required by Acts 2001, c. 676, cl. 2 of the Acts of Assembly, and §63.1-337 et seq. of the Code of Virginia.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The planned regulation has a positive impact on the family. It could encourage economic self-sufficiency and possibly increase disposable family income. It helps to minimize adverse financial impacts on families by assisting families with unexpected increases in home energy bills. It could prevent a no heat situation and reduce the risk of illness resulting from exposure. It supports commitment to healthy children and elderly persons by assisting with bill payment in an effort to avert negative actions by energy creditors. This regulation will not impact the authority and rights of parents, or marital commitment.