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## Proposed Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22 VAC40-661
<b>Regulation title(s)</b>	Child Care Program
<b>Action title</b>	Repeal and replace regulation to ensure compliance with Child Care and Development Block Grant Act of 2014.
<b>Date this document prepared</b>	6/14/2017

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*.

### Brief summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This is a joint action to repeal and replace 22VAC40-661. The regulatory action is necessary to bring state Child Care Subsidy Program requirements into alignment with the federal Child Care and Development Block Grant Act of 2014 (CCDBG). The goals of this action are to broaden the purposes of the program by emphasizing child development, increasing the number of children receiving healthy, safe and quality care, and implementing family-friendly policies, as required by the CCDBG, the major funding source of the program.

Changes to this regulation will strengthen the Child Care Subsidy Program's dual role as both an early childhood development program and a work support program for low-income families. Key changes in the proposed regulation include but are not limited to supporting and protecting the health and safety of children in care through more consistent standards for child care providers and monitoring of those

standards. The changes will also focus on improving the quality of care statewide through increased supports for child care providers, and enabling eligible families to more easily access stable and continuous care.

Requirements from the existing regulation are carried over and new requirements are added to provide for 12 months of continuous authorization for services, a phase-out of services, a conditional eligibility period for children experiencing homelessness, a change to reporting requirements of recipients during an authorization period, a provision for the transfer of eligibility from one locality to another, a limitation on amount of assets that can be owned by a recipient, a change to how the effective date of eligibility is determined, the verification of identity of applicants, a restriction that limits employees of local departments of social services from participating as program vendors, requirements for repayment of overpayments made, a requirement for training of local department staff who administer the program, and health and safety and inspection requirements for program vendors.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.*

CCDBG – means the Child Care and Development Block Grant Act of 2014, the law that reauthorized the child care program. The Child Care and Development Block Grant is the primary source of federal funding for child care subsidies for low-income families and funds to improve child care quality.

SMI – State Median Income.

There are no definitions or technical terms used that are not contained in the definitions of the proposed regulation.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.*

The State Board of Social Services (Board) has the authority to promulgate this regulatory action. The federal statutory authority for this program is the Child Care and Development Block Grant Act of 2014 (PL 113-186), as implemented in regulation 45 CFR parts 98 and 99. State authority is derived from §§ 63.2-217, 63.2-319, 63.2-510, 63.2-611, 63.2-616 and 63.2-1725 of the Code of Virginia.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

This regulatory action is necessary to ensure the state maintains compliance with federal CCDBG requirements to receive funding for the Child Care Subsidy Program, and to ensure improved program

integrity and accountability. Without these changes, Virginia risks losing federal resources which support low-income and vulnerable children and families. The proposed changes are designed to improve the health and safety of children in child care programs receiving subsidy; to promote child development; to provide continuity of child care services for families who are working, participating in education or training leading to employment, or receiving child protective services; to improve quality and increase the supply of quality child care throughout the state; and to make the Child Care Subsidy Program more family friendly.

## Substance

*Please 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.*

This regulatory action will make significant changes to the program. It will include critical provisions to ensure the health and safety of children in child care settings, improve the quality of care, and make it easier for families to get and keep child care assistance. Changes to be considered include:

- A change to allow families to be considered to meet all eligibility requirements for assistance and to receive assistance for not less than 12 months before the state redetermines eligibility, unless the family income exceeds the federal threshold of 85% of SMI, there is substantiated intentional program violations, or the recipient is no longer a resident of Virginia.
- A change to allow for a graduated phase-out of care.
- A change to allow for the expedited enrollment of children experiencing homelessness, pending the compilation of required documentation.
- A change to require a declaration from families receiving assistance that their assets do not exceed \$1 million in value.
- A change to the Begin Date of Service Payment rule to begin payment for services effective with the date the applicant is determined eligible and a vendor that meets all program participation requirements is selected.
- A change to require that all subsidy providers receive onsite inspections.
- A change to create standards for onsite inspections of subsidy providers.
- A change to mandate specific department-approved health and safety training, during preservice or orientation periods and ongoing, for all subsidy providers.
- A change to require providers to report to the department instances of death and serious injury in the child care setting.
- A change to include the process for vendors to appeal decisions made by the Department.
- A change to require appropriate child-to-provider ratios and group size limits based on the age of children in child care.
- A change to add and update multiple definitions in the regulation to coincide with other changes.

## Issues

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

Changes to this regulation will strengthen the Child Care Subsidy Program’s dual role as both an early childhood development program and a work support program for low-income families. Families and children will benefit from key changes in this new regulation that include but are not limited to supporting

and protecting the health and safety of children in care through more consistent standards for child care providers and through monitoring of those standards. The changes also focus on improving the quality of care statewide through inspections of unlicensed child care providers, and by enabling families to more easily access stable and continuous care.

Providers of child care services will be better served by having a current regulation with detailed standards for providers participating in the Child Care Subsidy Program. Children will benefit from providers meeting the health and safety requirements.

The regulation assures families that the child care program will be administered with clear and consistent case management policies, including provisions that support continuity of care, support for families to become more self-sufficient, and support for vulnerable children and families.

In order to provide the increased services mandated by the CCDBG, this proposed regulation may result in a reduction in the number of families who receive assistance. Also, providers who do not meet the new inspection requirements may be ineligible to receive payments through the Child Care Subsidy Program. Providers may experience an increase in operating costs to cover staff time to complete the federally mandated training. However, the ongoing costs should be reduced once all current staff have completed the initial training.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.*

There are no new requirements that are more restrictive than federal requirements; however, there are two requirements that carry over from the existing Subsidy Program regulation (approved by the State Board of Social Services in 2014) and one new requirement, the substance of which are not addressed in federal regulation.

In accordance with §63.2-1911 of the Code of Virginia, the proposed regulation includes a requirement carried over from the existing regulation for applicants and recipients to cooperate with the Division of Child Support Enforcement as a condition of eligibility except when good cause for noncooperation has been determined to exist. This requirement allows for additional support and services for families during and after program participation.

The requirement that limits receipt of child care assistance for Fee Program participation to 72 months per family is carried over from the existing regulation. This requirement provides consistency in statewide program implementation and allows the program to serve more families. Receipt of child care assistance for up to 72 months for non-TANF and Head Start families allows families to receive assistance through the child's more costly years for care and allows more families to be served.

The regulation includes a new provision that prohibits employees of any division within the department or a local department of social services from participating as a Subsidy Program vendor. This requirement ensures program integrity and will avoid conflicts of interest.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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While all 120 local departments of social services administer the Child Care Subsidy Program, the proposed regulation does not impose any requirement that would disproportionately impact one locality or a group of localities.

This regulation will likely decrease the administrative requirements, because local departments of social services will no longer be acting on most changes that occur during a recipient's 12-month eligibility period.

### Public participation

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

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In addition to any other comments, the agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in §2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Mary Ward, mailing address: 801 East Main Street, Richmond, VA 23219, phone number: 804-726-7638, fax number: 804-726-7655, and email address: [ccecdadmin@dss.virginia.gov](mailto:ccecdadmin@dss.virginia.gov). Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. Please indicate the regulation section addressed by each comment. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

### Economic impact

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

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<p><b>Projected cost to the state to implement and enforce the proposed regulation, including:</b>  <b>a) fund source / fund detail; and</b>  <b>b) a delineation of one-time versus on-going expenditures</b></p>	<p>Given the current caseload in child care, additional funds, beyond that already appropriated, are not needed to implement these proposed regulations. Due to a decline in the child care caseload over the past year, the child care program is currently underspending its appropriation. This underspending and the management of child care caseloads are sufficient to fund the cost of the proposed regulations, which are mandatory, at no additional cost.</p> <p>On-going expenditures include:</p> <table border="1"> <tr> <td data-bbox="824 558 1240 1014"> <p><b>12-month Authorization</b> The CCDBG requires that eligible families retain enrollment in the program for 12 months. There is no additional cost beyond that which is already appropriated for VIEW and At-Risk Child Care. Caseloads will be managed through attrition and by controlling the rate of entry into the child care program. Children will enter the program at a slower rate allowing costs to remain constant while providing enrollment for 12 months.</p> </td> <td data-bbox="1247 558 1416 1014"> <p>\$0</p> </td> </tr> <tr> <td data-bbox="824 1022 1240 1199"> <p><b>Phase-out of Services</b> The CCDBG requires that families who, at redetermination, exceed initial income eligibility limits, be gradually phased-out of the program.</p> </td> <td data-bbox="1247 1022 1416 1199"> <p>Cannot be determined at this time</p> </td> </tr> <tr> <td data-bbox="824 1207 1240 1656"> <p><b>On-site Inspections of Unlicensed Subsidy Providers</b> The CCDBG requires that all providers that participate in the Subsidy Program be inspected annually. The cost of this requirement includes the costs of 15 additional staff in the Division of Licensing Program to inspect unlicensed Subsidy providers. Approximately \$2.8M of funding was provided through HB1570 of the 2015 General Assembly for this cost. No additional funds are needed.</p> </td> <td data-bbox="1247 1207 1416 1656"> <p>\$0</p> </td> </tr> <tr> <td data-bbox="824 1665 1240 1898"> <p><b>Development of Annual Health and Safety Training</b> The CCDBG requires regular updates to the mandatory health and safety training required of child care providers who participate in the Subsidy Program. This cost can be</p> </td> <td data-bbox="1247 1665 1416 1898"> <p>\$25,000</p> </td> </tr> </table>	<p><b>12-month Authorization</b> The CCDBG requires that eligible families retain enrollment in the program for 12 months. There is no additional cost beyond that which is already appropriated for VIEW and At-Risk Child Care. Caseloads will be managed through attrition and by controlling the rate of entry into the child care program. Children will enter the program at a slower rate allowing costs to remain constant while providing enrollment for 12 months.</p>	<p>\$0</p>	<p><b>Phase-out of Services</b> The CCDBG requires that families who, at redetermination, exceed initial income eligibility limits, be gradually phased-out of the program.</p>	<p>Cannot be determined at this time</p>	<p><b>On-site Inspections of Unlicensed Subsidy Providers</b> The CCDBG requires that all providers that participate in the Subsidy Program be inspected annually. The cost of this requirement includes the costs of 15 additional staff in the Division of Licensing Program to inspect unlicensed Subsidy providers. Approximately \$2.8M of funding was provided through HB1570 of the 2015 General Assembly for this cost. No additional funds are needed.</p>	<p>\$0</p>	<p><b>Development of Annual Health and Safety Training</b> The CCDBG requires regular updates to the mandatory health and safety training required of child care providers who participate in the Subsidy Program. This cost can be</p>	<p>\$25,000</p>
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	<p>funded within the existing appropriation. No additional funds are needed.</p>	
	<p>This estimate does not include the cost of Phase-Out services as there is insufficient data on which to base an estimate at this time.</p>	
<p><b>Projected cost of the new regulations or changes to existing regulations on localities.</b></p>	<p>There will be no cost to localities based on the implementation of the proposed regulation.</p>	
<p><b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</b></p>	<p>Child care providers, eligible families and children and local departments of social services are affected by the regulation.</p>	
<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that: 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>	<p>There are 120 local departments of social services. In fiscal year 2016, 22,085 families and 38,756 children were served with subsidy dollars.  Approximately 3,500 child care providers who participate in the Child Care Subsidy Program may be impacted.</p>	
<p><b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</b> a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>a) If an individual is not currently First Aid or CPR certified, an initial cost of \$90-\$100 may apply with an additional cost for recertification every two years. The costs vary depending on the organization that administers the certification.  Child care providers may incur costs to pay staff for time required to take the federally mandated training. The requirement for 10 hours of orientation training may have a potential impact of \$107.90 per person, based on the cost of wages for employees (mean wage for child care workers in Virginia, \$10.79 per hour x 10 hours). The potential fiscal impact is based on the Bureau of Labor Statistics, Department of Labor, which reported the annual mean wage for child care workers in Virginia as \$22,440 or \$10.79 per hour.  Currently, the training is provided at no cost to caregivers. The only cost is to cover wages, if required, while the training is being taken.  b) There are no anticipated costs related to the development of real estate for commercial or residential purposes.</p>	
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>The health and safety standards and inspection requirements for child care providers participating in the Child Care Subsidy Program will ensure greater protection of families and children served through the program.  It is expected that the changes will also reduce the local department of social services administrative requirements of implementing the</p>	

	<p>program. The proposed regulations will reduce the number of required case actions during a recipient’s 12-month eligibility period; however, child care workers will be responsible for helping families understand child development issues that can impact their provider selection and they will be required to provide more information on the compliance record of the provider selected by the family.</p> <p>Twelve-month continuous authorization will support children’s development by providing continuity of care and by providing more stability for families who receive assistance.</p> <p>The proposed regulation will also provide more stable income for providers during a recipient’s 12-month authorization period for children in their care.</p> <p>The federally mandated phase-out period will help families gradually assume a higher share of the cost of child care as their income increases.</p>
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### 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.*

One alternative considered to address the inspection requirements of this regulation was to require child care providers that receive funding through the program to be licensed; however, that proposal was rejected by the 2015 General Assembly. The requirements included in this regulation that impact small businesses are the result of federal requirements established by the CCDBG. The alternative would be to decline federal funding that supports assistance with the cost of care for low-income families who are working, participating in an education or training program, or are receiving child protective services. Funding from the CCDBG also supports the cost of licensing inspectors for all children’s programs.

### Regulatory flexibility analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.*



The agency has determined there are no alternative methods that would minimize the impact on small businesses. Most of the changes in the proposed regulation are based on new federal requirements of the CCDBG.

**Periodic review and small business impact review report of findings**

*If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.*

Not applicable.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.*

There was no public comment.

**Family impact**

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory 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 new regulation will implement new family-friendly policies that will enable eligible families to more easily access safe, healthy, and nurturing care for their children that will support families in maintaining their employment. The new regulation includes changes that support and protect the health and safety of children in care through more consistent standards for child care providers and monitoring of those standards.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being*

*proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.*

If an existing regulation or regulations (or parts thereof) are being repealed and replaced by one or more new regulations, please use the following chart:

Current chapter-section number	Proposed new chapter-section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
22VAC40-661-10	22VAC40-665-10	Incorporates definitions within the current regulation.	<p>Most existing definitions were carried over to the proposed regulation. However, some terms are added, some deleted and some updated in the regulation to coincide with changes due to new federal requirements.</p> <p>The term “Assets” is added and defined.                      The term “Child care services” is removed and replaced with the term “Child care subsidy and services” or “Child Care Subsidy Program”.                      The term “Child experiencing homelessness” is added and defined.                      The term “Child support services” is removed as it is no longer needed.                      The term “Child with special needs or disability” is updated to comport to the definition in 45 CFR Part 98.                      The term “Cooperate with the Division of Child Support Enforcement” is removed as it is no longer needed.                      The term “Conditional eligibility” is added and defined.                      The term “Copayment” is updated to provide clarity and to document where the copayment scale may be found.                      The term “Exit eligibility limit” is added and defined.                      The term “Fiscal year” is added and defined.                      The term “Fraud” is removed as it is no longer needed with the existing term “Intentional program violation”.                      The term “Graduated phase-out” is added and defined.                      The term “Initial eligibility limit” is added and defined.                      The term “Level one provider” is updated to include providers not approved under local ordinance or federally approved.                      The term “Level two provider” is updated to remove the reference to Department of Education approved providers.                      The term “Need for child care” is added and defined.</p>

			<p>The term “Noncooperation with DCSE” is removed as it is no longer needed.</p> <p>The term “Register with the Division of Child Support Enforcement” is added and defined.</p> <p>The term “Vendor” is added and defined.</p> <p>The term “Vendor agreement” is added and defined.</p> <p>The term “Virginia Initiative for Employment not Welfare” or “VIEW” is added and defined.</p>
22VAC40-661-20	22VAC40-665-20	<p>The section provides the eligibility requirements for families and children to receive child care subsidy.</p> <p>The section includes specific eligibility criteria for families and children to receive child care subsidy. Requirements include: residence in the locality in which application or redetermination for assistance is made, age requirements of children served, citizenship or legal residency of the children served, and immunization requirements for children served.</p> <p>The regulation specifies that a family day home provider may not receive assistance for their own child who will be cared for in the home.</p>	<p>The existing requirements in 22VAC40-661-20 were carried over to the proposed regulation.</p> <p>A new provision is added that families receiving assistance must certify that they do not have assets which exceed \$1 million to comport to the requirements of the CCDBG.</p> <p>A provision is added that allows families of a child experiencing homelessness that cannot provide required documentation needed to determine eligibility to receive conditional approval for a period not to exceed 90 days.</p> <p>A provision is added that allows the local department the option to serve a child born to a family 10 months or more after the initial date of approval for the Fee Program, or place the child on the waiting list.</p>
22VAC40-661-30	22VAC40-665-30	<p>The section outlines the various categories of care within the program.</p> <p>The section provides details on the child care subsidy and services available to recipients of TANF.</p> <p>The section provides a description of the programs available to income eligible applicants to the extent of available funding.</p>	<p>The existing requirements in 22VAC40-661-30 were carried over to the proposed regulation.</p> <p>An amendment was made to the Fee Program requirements to include families who are not receiving SNAPET.</p>
22VAC40-	22VAC40-	Current catchline: State	The existing requirements in 22VAC40-661-40

<p>661-40 and 22VAC40-661-70</p>	<p>665-40</p>	<p>Income Eligible Scale and Copayments.</p> <p>The section outlines that the department is responsible for: establishing the income eligibility scale and the variables to be considered as well as the method for determining a co-payment and who will or will not be required to pay a copayment.</p> <p>The section outlines the case management process including the application process, the age of applicants, a requirement for registration with Child Support Enforcement, service planning, due process, redetermination, beginning date of payment, parental responsibilities, termination of services, and waiting list procedures.</p> <p>The section includes the requirement that limits receipt of child care assistance for Fee Program participation to 72 months per family.</p>	<p>were carried over to the proposed regulation. The family copayment chart was removed from the proposed regulation because it is changed annually as the Federal Poverty Guidelines change. It is included in the Child Care and Development Fund (CCDF) Plan, which is a document incorporated by reference in the proposed regulation.</p> <p>The existing requirements in 22VAC40-661-70 were moved to 22VAC40-665-40 with the exception of the requirement for reassessment. The requirement for local departments to make regular contacts with a member of the case household or the provider was removed. This requirement was removed to eliminate rules that could create a hardship for families receiving subsidy and unduly disrupt a parent's work schedule, and to reduce administrative requirements.</p> <p>The section catchline was changed to "Case management" to more accurately reflect all the provisions included within this section.</p> <p>The section includes new provisions that comport to new federal requirements. Families determined eligible will be considered to meet all eligibility requirements, and receive assistance, for not less than 12 months before their eligibility is redetermined with limited exceptions and limited changes to co-payments. The eligibility redetermination must also not unduly disrupt a parent's work schedule. A provision is added that provides for a graduated phase-out of care for families whose income exceeds the initial eligibility limit for their family size and locality, but does not meet or exceed the exit threshold. The section allows for the expedited enrollment of children experiencing homelessness. A new requirement is added that provides for families to maintain eligibility if they move from the locality in which they originally applied to another locality within the state (case transfers). A new requirement is added that specifies consumer information that must be provided to families. These changes will enable families to more easily access stable and continuous care and support their continued employment. These changes also support child care providers by ensuring more stable and continuous payment of authorizations for children in their care.</p> <p>A new requirement is added that prohibits</p>
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			<p>increases in family copayments during the 12 month eligibility period, except when the family income exceeds the initial eligibility limit but is below the exit eligibility limit during the graduated phase-out of care.</p> <p>The beginning date of service payment is amended and establishes the date the applicant is determined eligible and a vendor approved by the department is selected, as the beginning date of service payment. The beginning date of service payment for VIEW or SNAPET participants is established as the date of referral from the respective program. Eligibility must be determined within 30 days of receipt of a signed application or referral from VIEW or SNAPET. This provision will ensure that applications are processed timely once all required verifications and supporting documentation needed to determine eligibility is received by the local department. This will also ensure that payments are not made prior to the provider's approval by the department as a vendor.</p> <p>The requirement for parents to report changes that could affect their eligibility within 10 calendar days was amended to include only the following reported changes: countable income that exceeds 85% of SMI or when the recipient is no longer a resident of Virginia or the county from which they are receiving services.</p> <p>A new requirement for applicants to verify their identity is added to support program integrity.</p>
22VAC40-661-50	22VAC40-665-50	The section contains language on parental choice and providers used.	<p>The existing requirements in 22VAC40-661-50 were carried over to the proposed regulation.</p> <p>This section ensures that parents have full parental choice of all legally operating providers who are approved by the department to participate in the Child Care Subsidy Program.</p>
22VAC40-661-53	22VAC40-665-60	The section contains requirement that vendors must provide unlimited access to children in their care.	<p>The existing requirements in 22VAC40-661-53 were carried over to the proposed regulation.</p> <p>This section ensures that vendors afford parents unlimited access to their children in care as well as state and local department staff.</p>
22VAC40-661-57	22VAC40-665-70	<p>The section outlines requirements for child care providers who want to be eligible to receive payments through the program.</p> <p>The section provides the appeal procedures for</p>	<p>Provisions in the existing regulation at 22VAC40-661-57 were incorporated into the new proposed requirements. Provisions in this section ensure the health and safety of children in child care settings and improve the quality of care by requiring all providers participating in the Child Care Subsidy Program meet the requirements of the CCDBG.</p>

		disputes between a vendor and the department.	<p>The section includes the requirement, carried over from the existing regulation, for vendors who participate in the Child Care Subsidy Program to sign a department-approved vendor agreement.</p> <p>A new requirement was added for providers to be in compliance with the regulations for their type of child care, including background checks and to permit and cooperate with inspections by staff from the department of social services.</p> <p>A restriction is added to clarify that vendors who participate in the subsidy program may not do so while serving as an employee within the department or a local department of social services. This provision is included to prevent a conflict of interest.</p> <p>A provision is added that requires vendors to provide notice to individuals required to undergo background checks of the opportunity to challenge the results of the background checks and the procedures for doing so.</p> <p>The section provides the appeal procedures for disputes between the vendor and the department regarding the payment for services, enforcement or termination of the vendor agreement, or disqualification from the Child Care Subsidy Program.</p>
22VAC40-661-60	22VAC40-665-80	The section outlines the establishment and implementation rules for payment for child care services, including maximum reimbursable rates, payment for children with special needs, in-home care, registration fees, and holidays.	<p>The existing requirements in 22VAC40-661-60 were carried over to the proposed regulation. The section contains language on payment rates used and the established maximum reimbursable rates. This ensures consistent payment practices throughout the state.</p> <p>A provision is added that allows for payment of up to 24 absent days per fiscal year to level two providers. This will ensure that recipients do not risk losing their child care during periods of extended absences such as a child's illness.</p> <p>Requirements for out of state providers were removed with the elimination of approval for out of state providers to participate in the program. With implementation of the new federal requirements for background checks and inspections of providers participating in the Child Care Subsidy Program, the agency will no longer be able to approve out of state providers for participation in the program.</p>
22VAC40-661-90	22VAC40-665-90	The section covers how to handle complaints in the child care setting.	<p>The existing requirements in 22VAC40-661-90 were carried over to the proposed regulation. This section ensures that complaints regarding</p>

			possible child abuse or neglect occurring in a child care setting are handled appropriately. The intent is to ensure that parents have a mechanism to report complaints involving the child care services received by their children.
22VAC40-661-80	22VAC40-665-100	<p>Current catchline: Fraud.</p> <p>The section outlines procedures and action to be taken in the event of fraud and non-fraud overpayments.</p> <p>The section outlines procedures and action to be taken in the event of fraud or intentional program violation, including provisions to ensure improved program integrity and accountability.</p>	<p>The existing requirements in 22VAC40-661-80 were carried over to the proposed regulation.</p> <p>The section catchline is changed to “Recipient intentional program violation and disqualification” to more accurately reflect all the provisions included within this section of the regulation.</p> <p>The process for administrative disqualification from the program is included for child care recipients if there is clear and convincing evidence that fraud was committed, but the situation does not meet the Commonwealth Attorney’s criteria for prosecution. Disqualification for an intentional program violation is included as a reason for disqualification from the program. The administrative disqualification process and resulting disqualification from program participation will enable the program to take action when an intentional program violation in committed, but may not meet the dollar level established by some Commonwealth Attorneys for prosecution.</p>
22VAC40-661-80	22VAC40-665-105	<p>Current catchline: Fraud</p> <p>The section outlines procedures and action to be taken in the event of fraud and non-fraud overpayments.</p> <p>The section outlines procedures and action to be taken in the event of fraud or intentional program violation, including provisions to ensure improved program integrity and accountability.</p>	<p>The vendor disqualification procedures were removed from the current section and given a new section separate from the recipient disqualification procedures. The existing provisions in 22VAC40-661-80 related to vendor program violations were carried over to the proposed regulation.</p> <p>The new section catchline, “Vendor agreement termination and vendor disqualification” is added. This section outlines the provisions for terminating a vendor agreement and provisions for disqualification from participating in the Child Care Subsidy Program.</p>
22VAC40-661-100	22VAC40-665-110	<p>Current catchline: Administration</p> <p>The section includes the requirement for repayment of any overpayment made. The section prohibits the recoupment from the</p>	<p>The existing requirements in 22VAC40-661-100 were carried over to the proposed regulation. The section catchline is changed to “Repayment”.</p> <p>These requirements assure that improper payments are returned to the state and that parents and providers are not held responsible for improper payments over which they had no</p>

		parent or provider of an overpayment made as a result of an error by the local department.	control.
	22VAC40-665-115	None	A section is added and establishes requirements for training of local department staff with responsibilities for administering the Child Care Subsidy Program.
	22VAC40-665-120	None	Sections 120 through 460 add inspection requirements for family day home vendors as required by the CCDBG. These requirements provide for the health and safety of children for whom assistance is provided under this regulation while they are separated from their parents.  The section provides definitions for inspection requirements for family day home vendors participating in the Child Care Subsidy Program.
	22VAC40-665-130	None	The section is added and provides the legal base for the subsidy inspection requirements for family day home vendors.
	22VAC40-665-140	None	This section is added and outlines the purpose of the standards that apply to family day homes applying to receive, or that receive, funds from the Child Care Subsidy Program. The proposed requirements create standards for on-site monitoring of unlicensed providers and ensure that all subsidy providers receive onsite inspections.
	22VAC40-665-150 through 22VAC40-665-210	None	These sections are added and provide the administrative requirements for family day home vendors participating in the Child Care Subsidy Program, including provisions for general recordkeeping and reports as well as health requirements for caregivers and children in care.
	22VAC40-665-220 through 22VAC40-665-230	None	These sections are added and provide caregiver qualifications and training requirements for family day home vendors participating in the Child Care Subsidy Program. Included are an age requirement for caregivers and requirements for pre-service and on-going training. The proposed requirements ensure that all subsidy providers receive mandated specific department-approved health and safety training during pre-service or orientation periods and ongoing as required by the CCDBG.
	22VAC40-665-240 through 22VAC40-665-350	None	These sections are added and provide the requirements for family day home vendors to maintain areas and equipment of the family day home in a clean, safe and operable condition.



			<p>Included are requirements that hazardous substances be inaccessible to children, requirements for bathroom and play areas, and requirements regarding furnishings in the family day home.</p> <p>Provisions for the supervision of children as well as ratio requirements and supervision of children near water are included in these sections.</p> <p>Requirements for the provision for daily activities and behavioral guidance are included.</p> <p>Requirements are established for caregivers to notify parents of health issues, injuries, behavioral problems, and any reason for termination from care.</p>
	22VAC40-665-360 through 22VAC40-665-410	None	<p>These sections are added and include provisions for preventing the spread of disease, requirements for administering medication, and procedures for emergencies and emergency response drills.</p>
	22VAC40-665-420 through 22VAC40-665-460	None	<p>These sections are added and include provisions for family day home vendors providing snacks or meals and special feeding needs.</p> <p>Included are requirements for family day home vendors that provide transportation and evening and overnight care.</p> <p>Provisions are included for family day home vendors with animals or pets.</p>
	22VAC40-665-470	None	<p>Sections 470 through 830 add inspection requirements for child day center vendors as required by the CCDBG. These requirements provide for the health and safety of children for whom assistance is provided under this regulation while they are separated from their parents.</p> <p>This section provides definitions for inspection requirements for child day center vendors participating in the Child Care Subsidy Program.</p>
	22VAC40-665-480	None	<p>This section is added and provides the legal base for the subsidy standards for child day center vendors.</p>
	22VAC40-665-490	None	<p>This section is added and outlines the purpose of the standards that apply to child day centers applying to receive, or that receive, funds from the Child Care Subsidy Program.</p>
	22VAC40-665-500 through	None	<p>These sections are added and provide the administrative requirements for child day center vendors participating in the Child Care Subsidy</p>

	22VAC40-665-560		Program. Included are provisions for general recordkeeping and reports as well as health requirements for staff and children in care.
	22VAC40-665-570 through 22VAC40-665-580	None	<p>These sections are added and provide the general qualifications and training requirements for staff of child day centers participating in the Child Care Subsidy Program, including age requirement for the vendor and staff, as well as pre-service and on-going training requirements.</p> <p>The proposed requirements ensure that all subsidy providers receive specific department-approved health and safety training, during preservice or orientation periods and ongoing as required by CCDBG.</p>
	22VAC40-665-590 through 22VAC40-665-720	None	<p>These sections are added and provide the requirements for child day center vendors to maintain areas and equipment of the center in a clean, safe and operable condition.</p> <p>Included are approval requirements needed from other agencies prior to or subsequent to initial approval.</p> <p>Included is a requirement that hazardous substances be inaccessible to children.</p> <p>These sections provide requirements for restroom and play areas as well as furnishings in the center.</p> <p>These sections also include requirements for the supervision of children as well as ratio and group size requirements and provisions for supervising children near water.</p> <p>Provision for daily activities and behavioral guidance are included in these sections.</p> <p>Requirements for caregivers to notify parents of health issues, injuries, behavioral problems, and any reason for termination from care are established.</p>
	22VAC40-665-730 through 22VAC40-665-780	None	These sections are added and include provisions for preventing the spread of disease and hand washing, requirements for administering medication, first aid and emergency supplies, and the required procedures for emergencies.
	22VAC40-665-790 through 22VAC40-665-830	None	<p>These sections are added and include provisions for child day centers offering snacks or meals and special feeding needs.</p> <p>Included are requirements for child day center vendors that provide transportation and evening and overnight care.</p>

			Provisions for child day centers with animals or pets are included.
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If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation is identical to the emergency regulation, please choose and fill out the appropriate chart template from the choices above. In this case “current section number” or “current chapter-section number” would refer to the **pre-emergency** regulation.

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation includes changes since the emergency regulation, please create two charts: 1) a chart describing changes from the **pre-emergency** regulation to the proposed regulation as described in the paragraph above, and 2) a chart describing changes from the **emergency** regulation to the proposed regulation. For the second chart please use the following title: “Changes from the Emergency Regulation.” In this case “current section number” or “current chapter-section number” would refer to the **emergency** regulation.