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TO: KARIN CLARK
Virginia Department of Social Services

FROM: MICHELLE A. L'HOMMEDIEU 
Assistant Attorney General

DATE: June 8, 2018

SUBJECT: **Fast-Track Regulations to Amend Definition in Locality Groupings Regulation; 22VAC40-293-10 (5051/8278)**

I am in receipt of the attached regulations regarding the Locality Groupings Regulatory definition (22 VAC 40-293-10). You have asked the Office of the Attorney General to review and determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state law.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2. It is my opinion that the State Board has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA"), and has not exceeded that authority. To date, the Board has not yet acted on this regulation; and the Agency Background Document available on Town Hall reflects the anticipated future date of Board action.

Under Virginia Code § 2.2-4012.1, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the Virginia Department of Social Services shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the Fast-Track regulation serving as the Notice of Intended Regulatory Action. If you have any questions or need additional information about these regulations, please contact me at 786-6005.

cc: Kim F. Piner, Esq.

Attachment

Project 5462 - Fast-Track

DEPARTMENT OF SOCIAL SERVICES

Amend Definition in Locality Groupings Regulation

22VAC40-293-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Locality groupings" means the placement of a locality into ~~either Group I, Group II, or Group III~~ one of two groups, which determines the Temporary Assistance for Needy Families (TANF) payment level for families residing in that locality.

"Standard of assistance" means the TANF payment standard that is graduated by family size.

"State board" means the State Board of Social Services.