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Fast-Track Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22 VAC40-293
Regulation title(s)	Locality Groupings
Action title	Amend Definition in Locality Groupings Regulation
Date this document prepared	June 20, 2018

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

Temporary Assistance for Needy Family Services (TANF) provides monthly cash assistance to eligible families. This regulation establishes criteria for local departments of social services to change TANF locality groupings. Each local area is sorted into a locality grouping which determines payment levels for recipients of TANF in that locality. The regulation indicates the required data and the criteria to determine if a locality may switch to another locality grouping and change payment levels.

In the 2017 state budget, Groups I and II were combined, with Group I localities moved into Group II. This change took place July 1, 2017. The definition of "locality groupings" in this regulation makes reference to Group I, Group II, and Group III. The definition is being amended to reflect that there are only two groups.

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.

TANF means the Temporary Assistance for Needy Families program.

Statement of final agency action

Please 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 State Board of Social Services approved the action to amend 22VAC40-293, Locality Groupings, on June 20, 2018.

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.

Section 63.2-217 of the Code of Virginia places responsibility on the State Board of Social Services to make rules and regulations necessary to carry out the purpose and intent of the sections of the Code related to Social Services. Item 342 O. of the 2017 Appropriation Act provides, “The Board of Social Services shall combine Groups I and II for the purposes of Temporary Assistance to Needy Families cash benefits and use the Group II rates for the new group.”

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 regulation establishes criteria for local departments of social services to change TANF locality groupings. Each local area is placed in a locality grouping which determines payment levels for recipients of TANF in that locality. The regulation provides the required data and the criteria to determine if a locality may switch to another locality grouping and change payment levels. The TANF Program provides an important safety net to low-income families and is essential to protecting the welfare of eligible citizens. The Locality Groupings regulation ensures that localities administer the program in a manner that best meets the needs of their citizens.



Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

The 2017 General Assembly action amending the budget language was not controversial, nor was it controversial when the change was implemented effective July 1, 2017. Because this regulatory action updates the regulation to reflect the intent of the budget change, it is not expected to be controversial.

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.

References to three separate groups is being replaced with reference to "one of two groups." This approach was determined to be a clearer, more streamlined change that is in keeping with practice, as opposed to eliminating "Group I" and having the regulation reference just Groups II and III.

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.

Localities are divided into two groups for the purposes of determining payment levels for recipients of TANF. Previously, there were three groups of localities. The definition of "locality groupings" is being amended to reflect this. Amending the regulation will ensure that it is reflective of the 2017 Appropriation Act and current practice, and that program rules are transparent to the public. There are no disadvantages to the public or to the Commonwealth.

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 applicable federal requirements.

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.

There are no localities disproportionately impacted by updating the definition of “locality grouping” in the regulation.

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 alternative to regulatory action is continuing to rely solely on budget language. However, regulatory action is needed to update 22VAC40-293, so that it reflects the intent of budget language.

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.

Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures	There is no cost resulting from updating the definition of “locality grouping.”
Projected cost of the new regulations or changes to existing regulations on localities.	There is no cost resulting from updating the definition of “locality grouping.”
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	This regulation primarily impacts recipients of TANF.
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. 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.	There are approximately 21,000 TANF families, of which 72% are in Group II localities and 28% in Group III localities. Small business are not affected by this regulation.
All projected costs of the new regulations or changes to existing regulations for affected	There is no cost resulting from updating the definition of “locality grouping.”

<p>individuals, businesses, or other entities. Please be specific and include all costs including: 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>Beneficial impact the regulation is designed to produce.</p>	<p>Changing the regulation will ensure that the regulation is reflective of current practice so program rules are transparent to the public.</p>

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.

The alternative to regulatory action is continuing to rely solely on budget language. However, regulatory action is needed to update 22VAC40-293, so that it reflects the intent of the 2017 change in the budget.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day 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 agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

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 change in the definition of “locality groupings” recognizes the shift from three groups to two. Increasing benefits for families in former Group I localities provides additional income to very poor families. The additional money allows families greater access to basic items.

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.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	n/a	"Locality groupings" refers to placement of a locality into either Group I, Group II, or Group III, which determines TANF payment levels for families residing in that locality.	Reference to three individual groups is replaced by a simpler reference to "one of two groups." The new definition will ensure the regulation reflects General Assembly action to shift from three to two groups. As the action already took place, there will be no impact from the regulatory change.