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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-601
VAC Chapter title(s)	Supplemental Nutrition Assistance Program
Action title	Repeal Section 50 Application Processing
Date this document prepared	June 17, 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Supplemental Nutrition Assistance Program (SNAP) provides nutrition benefits to supplement the food budget of eligible families so they can purchase healthy food and move towards self-sufficiency. This regulation establishes the framework by which local departments of social services administer SNAP. The goal of the action is to repeal section 50.

Currently, 22VAC40-601-50 allows for denial of applications for SNAP benefits after 30 days, if the local department of social services is unable to process the application because additional information is needed. Federal regulations permit this processing method. The agency amended this regulation to add section 50 as a potential local workload reduction effort and it became effective in 2011. However, full comprehension of federal requirements and system changes required for implementation have extinguished the impact on work reduction outcomes. Thorough evaluation of the application denial method revealed that timing of staff work activities would shift, but not necessarily result in a reduction.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

CFR Code of Federal Regulations
 SNAP Supplemental Nutrition Assistance Program
 VDSS Virginia Department of Social Services

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

A periodic review of 22 VAC 40-601, pursuant to Executive Order 14(as amended July 16, 2018) resulted in the recommendation that the chapter be amended to repeal section 50.

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 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. Title 7 of the Code of Federal Regulations (CFR) at §271.4 delegates responsibility to administer SNAP within a state to the agency assigned responsibility for other federally funded public assistance programs. 7 CFR §273.2(h) allows states an option to deny SNAP applications after 30 days or to extend the pending status for an additional 30-day period.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

This chapter establishes the framework by which local departments of social services administer SNAP. SNAP is essential to the health and welfare of citizens, as it provides nutrition benefits to supplement the food budget of eligible families, so they can purchase healthy food and move towards self-sufficiency. Because section 50 was never fully implemented, no potential issues are expected as a result of repealing the provision.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Currently, 22VAC40-601-50 allows local eligibility workers to deny SNAP applications that remain unprocessed as of the 30th day, if applicants fail to provide information or fail to take actions needed to determine eligibility for benefits. Local workers must notify applicants of the actions or information needed to process the applications and inform the applicants of an opportunity to have the denial rescinded by providing the processing actions within the next 30 days. The date applicants provide pending information will determine the amount of benefits applicant households will receive. If applicants fail to provide requested information or take required actions, the application will remain denied.

The substantive change to the chapter is repealing section 50, which will mean the SNAP applications will be held pending for an additional 30 days if applicants fail to provide information or take required actions after the initial 30-day period. Applicants that fail to provide information or take action during the extended pending period will have their SNAP applications denied on the 60th day following the application date. 7 CFR §273(h) allows the states an option to deny SNAP applications after 30 days or to extend the pending status for an additional 30-day period.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

VDSS implemented the extended pending method in 1979. VDSS initiated the process to change the processing method as a potential work reduction effort and for potential consideration of federal bonus money. VDSS has not implemented the provision allowed by amendment 50. Thorough evaluation of the application denial method revealed that timing of staff work activities would shift but would not necessarily result in a reduction. Continuing to use the extended processing method is not intrusive to program recipients nor is it costly to federal or state governments. The repeal does not affect small businesses.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

This NOIRA is not being used to announce a periodic review or small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

INSERT:

The State Board of Social Services] is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Celestine Jackson, 801 E. Main Street, Richmond, VA 23229, celestine.jackson1@dss.virginia.gov, 804.726.7889, fax, 804.819.7184. 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 not be held following the publication of the proposed stage of this regulatory action.