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Final Regulation 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	August 17, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Currently, 22VAC40-601-50 allows for the denial of applications for Supplemental Nutrition Assistance Program (SNAP) benefits after 30 days if the local department of social services (LDSS) is unable to process the application because additional information is needed, as permitted under federal regulations.

This regulatory action seeks to repeal 22VAC40-601-50. The State Board of Social Services established section 50 in 2011 as a potential work reduction opportunity for local workers; however, it was never implemented due to federal requirements and necessary system changes required for implementation. The Department of Social Services (DSS) was never able to implement the provisions outlined in section 50 and has no intention of implementing the provisions in the future.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

- CFR - Code of Federal Regulations
- DSS - Department of Social Services
- LDSS – local department of social services
- SNAP - Supplemental Nutrition Assistance Program

Statement of Final Agency Action

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 took final action on 22VAC40-601 Supplemental Nutrition Assistance Program on August 17, 2022.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There were no changes to the information reported on the Agency Background Document submitted for the proposed stage. A periodic review of 22VAC40-601, pursuant to Executive Order 14 (as amended July 16, 2018) determined the need for DSS to repeal section 50 due to the fact that the provisions were never implemented and would not be implemented in the future.

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

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

SNAP applicants must apply for benefits in the city or county where they live. SNAP benefits are calculated from the date the application is filed. LDSS normally have 30 days from the filing date to process SNAP applications. Federal regulations allow two options for processing applications if the local worker is unable to complete the processing of the application by the end of 30 days. States must either deny the unprocessed applications at the end of the 30-day period or extend the processing period by an additional 30 days. For both processing methods, the day the applicant household supplies needed information will determine the amount of SNAP benefits authorized if the applicant provides the information after the 30th day.

The agency initiated section 50 in an effort to reduce local workload activities; however, it was determined that the effort to implement the application processing method would not likely result in significant reduced work activities to offset the major system modifications needed, altered work activities and documents, and the retraining of the work force.

The chapter sets out the framework by which LDSS administer SNAP benefits. SNAP is essential to the health and welfare of citizens, as it provides for nutritional benefits to supplement the food budgets of eligible families. The repeal of 22VAC40-601-50 will not affect the health and safety of citizens. The welfare of citizens is also unaffected by this regulatory action, in that the amount of SNAP benefits one would receive would remain the same regardless of the application processing method.

Substance

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.

Currently, 22VAC40-601-50 allows local eligibility workers to deny SNAP applications that remain unprocessed as of the 30th day, if an applicant fails to provide information or fails to take necessary action to determine eligibility for benefits. Local workers must notify an applicant of the actions or information needed to process the application and inform the applicant of an opportunity to have the denial rescinded by providing the processing actions within the next 30 days. The date an applicant provides pending information will determine the amount of benefits for the applicant household. If an applicant fails to provide the requested information or take required actions, the application will remain denied. The substantive change is the repeal of section 50, which will result in a SNAP application held pending for an additional 30 days if an applicant fails 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.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

There are no advantages or disadvantages to the public or the Commonwealth in repealing 22 VAC 40-601-50.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no requirements in this regulatory action that would exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

There are no other state agencies particularly affected by this regulatory action.

Localities Particularly Affected

This regulation impacts LDSS. All LDSS receive and dispose of SNAP applications. This regulatory action does not affect staffing or work activities of LDSS and no individual locality will be particularly affected.

Other Entities Particularly Affected

This regulatory action will not impact other entities. The amount of SNAP benefits to applicants will remain the same using the existing method.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

There were no comments received during the public comment period following the publication of the proposed stage.

Commenter	Comment	Agency response

Detail of Changes Made Since the Previous Stage

List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

There were no changes made to the text since the proposed stage.

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements

Detail of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
50	n/a	LDSS must deny SNAP applications on the 30th day after the application filing date if an applicant household fails to provide the required information. LDSS must reactivate and process the application if the applicant supplies required information within the next 30 days.	<p>This regulatory action will repeal the entire section. LDSS must notify applicants on the 30th day after the application filing date that their SNAP applications are pending and the information needed to continue processing the application if applicant households fail to provide required information by the 30th day. LDSS must process the application if the applicant supplies the required information within the next 30 days. LDSS must send a denial notice on the 60th day if the applicant fails to provide the required information.</p> <p>The rationale for the regulatory action is to eliminate an unnecessary provision that will never be implemented. There will be no impact on LDSS and citizens.</p>