



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-293
Regulation title	Locality Groupings
Document preparation date	August 17, 2011

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Pursuant to § 63.2-217 of the Code of Virginia, the State Board of Social Services has authority to promulgate rules and regulations necessary for the operation of all assistance programs. Chapter 1042 of the 2003 Acts of Assembly required the promulgation of regulations to put in place a process where local social services agencies could request a change to the locality groupings to which they are assigned. Locality groupings are used to determine the amount of payment for families receiving Temporary Assistance for Needy Families (TANF).

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

Data for establishing the standards of assistance for locality groupings are from the Fair Market Rent Schedules (FMR) established by the Department of Housing and Urban Development. The FMR provides locality-specific data that is routinely updated. The primary driver of cost of living differences between localities is the cost of housing. The FMR schedules were the best source of data that could be easily obtained that provided the necessary information.

House Document 14 (2001), *Study of Locality Groupings*, provided several options that could be considered for determining locality groupings. These options were considered to determine if the current method is the least burdensome.

One option is to keep the process as is, using the FMR. The second option is to combine the FMR with Planning Districts so that districts composed of multiple counties or cities would be considered together for purposes of locality grouping placement. Under this method, many localities would change groupings.

Another option was to assess the cost of living by locality by creating a Virginia locality-specific Consumer Price Index comparable to the United States Consumer Price Index. Using this method would require regular maintenance of a consumer expenditure survey for developing a Virginia locality-specific consumer price index. Concerns with this method are: maintaining and updating the consumer price index; fiscal resources; and data accuracy and completeness.

Based on the difficulty of using another method and looking at long term fiscal costs, the existing regulation is considered to be the best method of determining if a locality needs to change its grouping. The current method is also easy to follow.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

A notice was sent to all interested parties and all local departments of social services. An informal advisory group was not formed for the purpose of assisting with the periodic review.

Commenter	Comment	Agency response
John Horejsi For Social Action Linking Together (SALT)	The TANF Block Grant has been used as a rainy day fund for other programs. The grant should only be used for families in need. There needs to be an increase. The current groupings are not equitably distributed throughout Virginia. The current locality groupings should be eliminated for TANF and certain Medicaid categories. A single statewide eligibility standard should be adopted for these programs.	The goal of this regulation, as specified in the budget bill, was to promulgate regulations providing a process for localities to change locality groupings. Having one standard for the entire state goes beyond the scope of the regulation.
Ms. Jill A. Hanken Virginia Poverty Law Center	The current Groupings of Localities is inequitably distributed throughout Virginia. The present groupings allow for income eligibility and payment levels to be very low. The entire grouping system should undergo a comprehensive revision in order to obtain a more accurate and efficient eligibility process for TANF and Medicaid Programs. Virginia should adopt a single eligibility standard.	The goal of this regulation, as specified in the budget bill, was to promulgate regulations providing a process for localities to change locality groupings. Having one standard for the entire state goes beyond the scope of the regulation.

<p>Mr. Bryan R. Mesh Beth Sholom Village</p>	<p>Beth Sholom Village is a nursing home in Virginia. Mr. Mesh requests that all persons receiving Medicaid living in a nursing home be deemed impoverished and eligible to meet the 50% requirement for National Assistance Program (NAP) charitable funds.</p>	<p>This comment is not relevant to the review of this regulation.</p>
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Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation is an advantage to the Commonwealth, local departments of social services, and recipients of TANF. If this regulation were not in place, there would be no procedure for changing locality groupings even though there may have been significant changes in the cost-of-living in a given locality. The result would be an inequitable payment structure for TANF with no means of correcting the situation. This regulation establishes criteria using data that is easily obtainable and readily available.

Since the establishment of the regulation, several localities have petitioned the State Board of Social Services to change their TANF locality group. In all situations, the regulation has been easy to follow, without any difficulty in providing the necessary data. The regulation is clearly written and easily understandable. Furthermore, since it provides a mechanism to achieve greater equity in TANF payments, it helps to provide for the general welfare of families in the Commonwealth.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The State Board of Social Services recommends that the regulation retained without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) 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. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The regulation was last reviewed in 2007 and is still needed in order to provide a process by which localities can change grouping if there is a need to do so. There is no impact to small businesses.

The regulation is clearly written and easily understandable; it does not overlap or duplicate or conflict with any federal law or regulation. Furthermore, since it provides a mechanism to achieve greater equity in TANF payments, it helps to provide for the general welfare of families in the Commonwealth.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

This regulation assists families on TANF because it provides for payment levels that are more reflective of local cost of living differences. In many situations, this could mean higher payments and greater resources for families in need. The regulation provides a method to switch locality groups to achieve a greater degree of equity in payments, which is positive for families on TANF.

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