



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22VAC40-685
Regulation title	Virginia Energy Assistance Program-Home Energy Assistance Program
Document preparation date	December 14, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

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.

Section 63.2-271 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate public assistance programs in Virginia. The Home Energy Assistance Program (HEAP) administered by the Department of Social Services was established in accordance with § 63.2-805 of the Code.

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.

Because the language of § 63.2-805 pertaining to HEAP is detailed and prescriptive, one alternative is to not promulgate a regulation for HEAP and operate the program based on state statute. This alternative is not feasible, as subsection E of § 63.2-805 makes clear that the receipt of monies into the fund and disbursement of monies from the fund will be directed by State Board regulations. Therefore, regulations specific to HEAP fund disbursements are required. To provide a context for the operation and administration of the HEAP for which fund are disbursed, the regulation includes a definitions section, a

program section and a HEAP fund section. These three sections make clear the purpose of the HEAP and the process and method to disburse funds. It is in the public interest to retain regulations governing the administration of the HEAP in conjunction with the required regulations regarding disbursement of HEAP funds.

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.

No comments were received.

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 existing regulation meets the criteria set forth in Executive Order 14 and is necessary for the protection of public health, safety and welfare. The regulation is clear and concise and written in a manner easily understood.

Result

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

The agency recommends that the regulation stay in effect 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 grants authority to the Department to receive and disburse HEAP funds. Since the inception of the fund, total contributions including interest is just over \$350,000. These funds are used to supplement the Low-Income Home Energy Assistance Program (LIHEAP) federal funding used to administer the Energy Assistance Program (EAP). In addition, HEAP funds are used to leverage additional federal funds. The regulation makes additional revenue available to over 700 vendors; as

such, the impact of this regulation on small businesses is positive. The regulation is not complex and does not overlap, duplicate, or conflict with other federal or state laws or regulations. The regulation was last evaluated in 2007. In 2009, the regulation was amended in response to action taken by the General Assembly to change the time frame for reporting to the General Assembly on the overall effectiveness of energy assistance programs in the Commonwealth from an annual to biennial reporting cycle.

Business entities that provide EAP goods and services are eligible to participate in the EAP. Payments to vendors are determined by their respective products, self designated service areas, and customer selection. Since the last review of this regulation, enhancements in technology have provided a more streamlined automated payment process for participating vendors. There is no need to amend or repeal the regulation to minimize the impact on small businesses.

Family impact

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

Increases in home energy costs, a difficult economy and the unemployment rate have created additional hardships for many individuals and families in the Commonwealth. In recent years the number of households served by the EAP has increased substantially. Approximately 40 percent of all households served by the EAP have annual incomes less than \$10,000. These families have little room in their budgets to absorb even modest increases in energy costs, making the need for energy assistance services even more critical. The energy subsidies of the EAP, funded by LIHEAP federal funds and HEAP funds, cover approximately 25 percent of a household's energy costs. These subsidies have a positive impact on family stability by reducing their energy burden.