



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department for Aging and Rehabilitative Services
Virginia Administrative Code (VAC) citation	__22__ VAC_30__ -_30__
Regulation title	Provision of Independent Living Rehabilitation Services
Document preparation date	January 8, 2013

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.

The Commissioner of the Department for Aging and Rehabilitative Services has legal authority to promulgate this regulation under the Code of Virginia 51.5-131. The federal independent living regulations 34 CFR 364 and 365 do not mandate the state to promulgate this regulation.

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.

The Department for Aging and Rehabilitative Services considered repealing the regulation and relying on the state contract and federal regulations to regulate service providers and protect client rights. However, retaining the state regulation will enable clients to access the state judicial system in an appeal, and will make the state-funded program consistent with the federal program

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 public comment was received in response to publication of the Notice of Periodic Review. No informal advisory group was formed for assisting in the periodic review.

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 for Independent Living Services comply with the current federal regulations and provides that state-funded Centers for Independent Living are regulated in a manner similar to federally funded Centers. Maintaining the existing regulations will continue to enhance consumer rights and reduce consumer cost for services. The substance of these regulations has not changed since 2004. Since that time, no comments have been received indicating that they are not clearly written and easily understandable.

Result

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

This regulation was recently changed to reflect the change in name of the promulgating agency from the Department of Rehabilitative Services to the Department for Aging and Rehabilitative Services. No other needed changes have been identified as a result of this review. The regulation should 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 nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) 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 existing regulation is needed to ensure that consumers' rights pertaining to implementation of the independent living services program are maintained and enhanced. This regulation also ensures reduced consumer costs for these services. No complaints or comments concerning this regulation have been received from the public. To reduce its complexity, the agency has followed the existing federal regulations where possible. Therefore, in part, this regulation does duplicate federal law. However, there are parts that are specific to Virginia that allow for reduced costs of services. The regulation does not overlap or conflict with other laws. This substance of this regulation has not changed since 2004. Technology has improved and enhanced independent living for persons with disabilities; however, the cost of technology can be prohibitive to some individuals. The existing regulations address the costs of independent living services to the individual. This regulation should have no economic impact on small business and should be retained as is.

Family impact

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

The regulation's requirement to consider only the client's income – and not family's income- if the client is age 18 or older, encourages the adult with disabilities to assume responsibility for oneself, increases access to services that family members may not wish to/be able to pay for, enhances self-determination and independence for adult clients living with parents, encourages economic self-sufficiency and self-pride, and increases disposable family income by not using financial resources of client's family members to pay for client's services.

Exempting clients receiving Worker's Compensation or Veterans' Disability benefits from the financial needs test increases access to services and increases disposable income for these individuals with disabilities. Maintaining certain services as "no cost" to the individual increases client access to these services and increases client disposable income.