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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22VAC40-293
Regulation title	Locality Groupings
Date	February 17, 2016

This information is required pursuant to Executive Order 17 (2014).

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 operation of all assistance programs.

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.

Temporary Assistance for Needy Families (TANF) payment levels are determined by the residence of the recipient. There are three payment groupings and this regulation provides a method for changing the locality grouping, and therefore the TANF payment level, of a locality. Other methods of determining locality groupings were examined. A statewide assistance level that was applied to all localities was considered. Reducing the number of locality groupings from three to two was also considered. However,

such changes would require a significant increase in the cost of benefits and would require the program to spend more funding than appropriated. The petition method of switching locality groupings on an individual locality basis was chosen as the best method to remove glaring inequities without causing great fiscal strain.

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.

Commenter	Comment	Agency response
Jill Hanken	The Department of Social Services must be responsible for evaluating and updating financial eligibility requirements.	As part of the social services system, this regulation requires local departments to initiate action to change locality groupings.
Jill Hanken	The Department of Social Services should repeal the current regulation and promulgate a system to establish uniform eligibility statewide.	One of the alternatives considered was to implement one statewide payment standard. However, the cost of such a change was prohibitive.
John Horejsi	Make increasing TANF benefits a priority. Provide TANF increases whenever foster care rates are increased.	Increasing TANF benefits is a function of the funding that is allocated in the state budget for TANF assistance. This regulation provides the methodology for a locality to change locality groupings. This regulation does not address a general increase in TANF payments as that occurs either through a change in State Code or through the state budget process.
John Horejsi	Create a fourth shelter group for jurisdictions in Northern Virginia.	Creating additional locality groupings would result in further complicating the eligibility process. It would also increase the cost of benefits beyond the allocated amount.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation is clearly written and easily understandable. The TANF Program and regulation are essential to protecting the welfare of vulnerable citizens. The regulation is necessary as it provides a mechanism for a locality to switch grouping when there is evidence to support that need. This regulation will protect families by allowing them access to greater resources in certain situations. This regulation establishes criteria using data that is easily obtainable and readily available. This results in a system that is more equitable to families across the Commonwealth.

Result

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

This regulation continues to be necessary and should stay in effect without change. Without it there would be no means of reviewing or changing the TANF payment level for a specific locality. Since this regulation has been in effect, eleven localities have switched to higher paying locality groupings, directly benefitting the citizens of those areas.

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 basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The regulation needs to be retained because it provides a mechanism for a locality to switch grouping when there is evidence to support that need. No comments have been received in the past concerning this regulation. This regulation is clearly written and easily understandable. This regulation does not overlap, duplicate, or conflict with any federal or state law or regulation. While economic conditions as well as local cost of living standards continue to change, this regulation provides a means for a locality to change locality groupings as a result of such changes. This regulation was last reviewed in 2011. It has no impact on small businesses.