




COMMONWEALTH of VIRGINIA

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TO: **KARIN CLARK**
Virginia Department of Social Services

FROM: **MICHELLE A. L'HOMMEDIU** 
Assistant Attorney General

DATE: **April 12, 2019**

SUBJECT: **Periodic Review of Regulations for Exemptions Applicable to Public Assistance; 22 VAC 40-470-10.**

I have reviewed the above-referenced regulation, which is undergoing a periodic review, to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the specified regulation and whether the specified regulation comports with applicable state law. As a result of the periodic review, the Department of Social Services ("DSS") intends to repeal the regulation as it applies to the Auxiliary Grant Program, the supervision of which has been transferred to the Virginia Department of Aging and Rehabilitative Services ("DARS").

Pursuant to Virginia Code § 63.2-217, the State Board is the entity authorized to promulgate regulations for programs that fall within the purview of the DSS, whereas the Commissioner of DARS has authority to promulgate regulations under DARS's authority. The substance and language of regulation 22 VAC 40-470-10 can be found at 22 VAC 30-80-80 under the DARS regulations governing the Auxiliary Grant Program. Consequently, it is my opinion that the State Board has the authority to and should repeal regulation 22 VAC 40-470-10, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 14 (amended 2018), and has not exceeded that authority.

If you have any questions or need additional information about these regulations, please contact me at 786-6005.

cc: Kim F. Piner, Esq.

Virginia Administrative Code
Title 22. Social Services
Agency 40. Department of Social Services
Chapter 470. Exemptions Applicable to Public Assistance Programs

22VAC40-470-10. Foreign Government Restitution Payments to Holocaust Survivors.

The value of foreign government restitution payments made to Holocaust survivors on or after August 1, 1994, shall be disregarded in the determination of eligibility or amount of assistance for the Auxiliary Grants Program as defined in § 51.5-160 of the Code of Virginia.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from VR615-05-55 § 1, eff. August 9, 1995; amended, Virginia Register Volume 24, Issue 9, eff. February 6, 2008; Volume 31, Issue 10, eff. February 26, 2015.