



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	22VAC30 Department of Rehabilitative Services
VAC Chapter Number:	22VAC30-30-10
Regulation Title:	Provision of Independent Living Services
Action Title:	Amend Provision of Independent Living Services
Date:	

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

This action will update the Department's regulations for Independent Living Services and Virginia's federally-funded Centers for Independent Living to comply with federal regulations. This action will regulate state-funded Centers in a manner similar to the federally-funded Centers, which is currently being accomplished through state contract. In addition, this action will reduce consumer cost for services and enhance consumer rights.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Code of Virginia 51.5-14

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+51.5-14>

Public Law 105-220 105th Congress The Rehabilitation Act of 1973 as amended in 1998

[http://frwebgate.access.gpo.gov/cgi-](http://frwebgate.access.gpo.gov/cgi-bin/useftp.cgi?IPaddress=162.140.64.21&filename=publ220.105&directory=/diskc/wais/data/105_cong_public_laws)

[bin/useftp.cgi?IPaddress=162.140.64.21&filename=publ220.105&directory=/diskc/wais/data/105_cong_public_laws](http://frwebgate.access.gpo.gov/cgi-bin/useftp.cgi?IPaddress=162.140.64.21&filename=publ220.105&directory=/diskc/wais/data/105_cong_public_laws)

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The amendment updates all sections regarding federally-funded Centers for Independent Living to make Virginia's implementation of the federal program comply with the federal Independent Living regulation. This action revises sections on eligible applicant agencies, funded activities, allocation of funds among Centers, scope of services, evaluation standards, periodic review, and appeal. The amendment adds similar sections for state-funded Centers to make the state program consistent with the federal program. The amendment adds those receiving Worker's Compensation or Veteran's Disability to the list of groups not required to pay for services. The amendment makes most services (but not goods), free, regardless of income. For cost services, if the client is age 18 or older, the amendment revises the financial needs test to consider only the client's income - even if the client is living with parents, spouse, etc. The client's written consent is required to release medical or psychological information to third parties. The client has the right to have a written service plan if determined eligible. If determined ineligible, the service provider must review the decision with twelve months and thereafter whenever the applicant's status has materially changed.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The Department of 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 and updating 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.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

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

The proposal to exempt clients receiving Worker's Compensation or Veterans' Disability benefits from the financial needs test will increase access to services and disposable income for these individuals with disabilities.

The proposal to change certain services from "fee-based" to "no cost" will increase client access to these services and increase client disposable income.