



Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 -293
Regulation title	Locality Groupings
Action title	Establish regulation for changing locality groupings
Document preparation date	April 14, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This regulation establishes criteria for local departments of social services to change Temporary Assistance for Needy Families (TANF) locality groupings. Each local area is placed in a locality grouping which determines payment levels for recipients of TANF in that locality. This regulation indicates the required data and the criteria to determine if a locality may switch to another locality grouping and change TANF payment levels.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

Final action on 22 VAC 40-293, Locality Groupings, was approved by the State Board of Social Services on April 14, 2004.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Code of Virginia, §§63.2-217 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.2-217>), places responsibility on the State Board of Social Services to make rules and regulations necessary to carry out the purpose and intent of the sections of the Code related to social services.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The current standards of need were established in 1974. There was not a mechanism for localities to change locality groupings, even though the locality groupings were based on differences in locality cost-of-living. Over time, significant changes have occurred in the development of local economies. This regulation is necessary to allow local departments of social services to change locality groupings when there is evidence to support that need. This regulation will protect the welfare of families by allowing them access to greater resources when warranted.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

This regulation establishes a procedure for local departments of social services to change locality groupings. Local departments of social services must petition the state board of social services, provide Department of Housing and Urban Development fair market rent data, and evidence that the request has been shared with the local governing board. If the request is to move to a locality grouping in which payments are lower, the local department must provide evidence that the locality has a disproportionate share of TANF recipients.

Issues

Please identify the issues associated with the proposed regulatory action, including:
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*

- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

This regulation is advantageous to the Commonwealth, local departments of social services, and recipients of TANF. Currently, there is no procedure for changing locality groupings even though there may have been significant changes in the cost-of-living in a given locality. The result is an inequitable payment structure for TANF that cannot be rectified. This regulation establishes criteria using data that is easily obtainable and readily available. This will result in a system that is more equitable to families across the Commonwealth. The regulation poses no disadvantages to the public or Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement in proposed regulation	Proposed change in final regulation and rationale
22VAC40-293-20 D, 1	The State Board shall approve requests to move to a higher locality grouping if the rent costs in the petitioning locality are 20% higher than a bordering locality and both localities are in the same grouping or the rent costs are equal to a bordering locality and the bordering locality is in a higher locality grouping.	An additional option was added for situations when the rent costs are 20% higher in the petitioning locality, and the bordering locality is in a higher locality grouping. This change will account for an additional situation in which a change in locality groupings is warranted.
22VAC40-293-20 D, 1	The State Board shall approve requests to move to lower locality groupings if the rent costs in the petitioning locality are 20% less than a bordering locality and both localities are in the same grouping or the rent costs are equal to a bordering locality and the bordering locality is in a lower locality grouping.	An additional option was added for situations when the rent costs are 20% lower in the petitioning locality, and the bordering locality is in a lower locality grouping. This change will account for an additional situation in which a change in locality groupings is warranted.
22VAC40-293-20 D, 1	There is a reference to situations in which fair market rent costs are “the same.”	To be more exact, “same” was changed to “equal.” The Economic Impact Analysis prepared by the Department of Planning and Budget stated that the proposed language was not specific.
22VAC40-293-20 D, 2	The number of TANF recipients is disproportionate if the proportion of recipients to the general population is at least 20% higher in the petitioning locality.	The Economic Impact Analysis prepared by the Department of Planning and Budget stated that 20% was prohibitively high. While the intent was not to require that figure be 20 percentage points higher, the comment pointed out the need for clarity. The section has been reworded so that the percentage of TANF

		recipients in the general population must be at least .8% higher in the petitioning locality. When calculating the percentage of TANF recipients in the general population for each locality in Virginia, this figure (.8%) is the standard deviation.
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Public comment

Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.

No comments were received.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22VAC40-293-20, A, 3		The local department of social services shall provide documentation that the local governing body has reviewed the proposal to change locality groupings.	This is required to make the regulation more precise and to ensure that the local governing body is aware of changes that may significantly impact their residents.
22VAC40-293-20, B		The Department of Social Services must prepare a fiscal impact statement.	A time frame was established. The fiscal impact statement must be prepared prior to the following state board meeting.
22VAC 40-293-20, D, 1		The State Board of Social Services will approve the request if it will achieve a higher degree of equity.	Criteria for evaluating the fair market rent data was added so that the determination of achieving equity was not subjective.
22 VAC 40-0293-20, D, 2		When petitioning to change to a lower locality grouping, the locality must provide data that there is a disproportionate share of TANF recipients in the locality.	Criteria for establishing whether there is a disproportionate share of TANF recipients was added so that the determination was not subjective.
22VAC40-293-20 D, 1		The State Board shall approve requests to move to a higher locality grouping if the rent costs in the petitioning locality are 20% higher than a bordering	An additional option was added for situations when the rent costs are 20% higher in the petitioning locality, and the bordering locality is in a higher locality grouping. This change will account for an additional situation in which a change in locality groupings is

		locality and both localities are in the same grouping or the rent costs are equal to a bordering locality and the bordering locality is in a higher locality grouping.	warranted.
22VAC40-293-20 D, 1		The State Board shall approve requests to move to lower locality groupings if the rent costs in the petitioning locality are 20% less than a bordering locality and both localities are in the same grouping or the rent costs are equal to a bordering locality and the bordering locality is in a lower locality grouping.	An additional option was added for situations when the rent costs are 20% lower in the petitioning locality, and the bordering locality is in a lower locality grouping. This change will account for an additional situation in which a change in locality groupings is warranted.
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Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulation will assist families on TANF because it provides for more equitable payment levels. In many situations, this could mean higher payments and greater resources for families in need.