



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation</b>	22VAC40-470
<b>Regulation title</b>	Exemptions Applicable to Public Assistance Programs
<b>Document preparation date</b>	December 14, 2011

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.*

Public Law 103-286, Victims of Nazi Persecution Act of 1994, requires payments to victims of Nazi persecution to be disregarded in determining eligibility for and the amount of benefits or services provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need. Section 63.2-217 of the Code of Virginia authorizes the State Board of Social Services to adopt regulations necessary or desirable to carry out the programs established in Title 63.2. The Department applies this exemption to all public assistance programs, not just the federally funded 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.*

The exclusion of these payments is mandated by federal law. Counting them in the determination of eligibility and benefit levels would most certainly result in appeal hearings and potential litigation. This would be detrimental to the low income Virginia residents who are dependent on federal, need-based public assistance programs administered by local departments of social services.

**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.*

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No comments were received during the public comment period.

**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.*

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The regulation is necessary for the welfare of Virginia’s low income citizens who were persecuted by the Nazis during the Holocaust. This regulation will ensure that income that is exempt from consideration by the federal government in the determination of eligibility and benefit levels for federal means-tested programs is exempt for public assistance programs administered by local departments of social services. The regulation clearly states that these payments are not counted.

**Result**

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

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The agency recommends that the regulation be maintained without change to ensure the welfare of low-income Virginia residents who receive these payment and who are also dependent upon federally funded public assistance programs.

**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 the 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.*

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There is no impact on small businesses. Small businesses may benefit from this regulation as the disposable income of the individual receiving these payments will be increased, giving them more money to spend in their local economy. There were no comments received during the comment period. The regulation does not duplicate or overlap other regulations promulgated by the Department.

The regulation was last reviewed in 2007. It provides instructions for local eligibility staff relative to income to disregard in the determination of eligibility for federally funded, need-based public assistance programs. There is no emerging technology that could alone determine if income should be counted or disregarded; the eligibility worker must enter the correct coding so the system will know if the income will be disregarded. Because the federal statute has not been repealed, this regulation should not be amended or repealed.

### Family impact

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

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This regulation will increase family stability by giving the recipients of these payments greater disposable income to meet their subsistence needs.