



Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-601
Regulation title	Supplemental Nutrition Assistance Program
Action title	Alter the time an application for food stamp benefits may be held pending before processing.
Date this document prepared	June 16, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

This regulatory action changes the title name and all references in the regulation from the "Food Stamp Program" and "food stamps" to the "Supplemental Nutrition Assistance Program (SNAP)" and "SNAP benefits."

This regulatory action adopts two federal options allowed for the program. The first option has been adopted in 22 VAC 40-601-50 and allows for the denial of SNAP applications after 30 days if information or actions by the applicant are still needed to determine eligibility or benefit amount. Adoption of this amendment potentially reduces eligibility actions by local social services employees. It does not reduce or prevent the availability of benefits to eligible households from what is currently available if applicants later supply the information or take required actions. The second option has been adopted in 22 VAC 40-601-60 and expands a SNAP component to provide transitional benefits to households whose state funded public assistance cases close. This allows state funded programs to receive similar treatment as federally funded programs currently receive.

There are minor changes from the proposed stage as references to the Food Stamp Act are changed to reference SNAP. References to the governing law reflect the Food and Nutrition Act.

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.

The State Board of Social Services approved this regulation on June 16, 2010.

Legal basis

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

Section 63.2-217 of the Code of Virginia (Code) grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. State agencies are delegated the responsibility to administer SNAP within the state by 7 C.F.R. § 271.4. The Food, Conservation, and Energy Act (FCEA) of 2008 (Pub. L. No. 110-246 et seq.) allows states an option to expand the transitional benefits component to include state-funded programs. States are allowed an option to deny SNAP applications after 30 days or to extend the pending status by 7 C.F.R. § 273.2(h).

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Federal regulations allow state agencies to deny unprocessed SNAP applications after 30 days or to extend the processing time for an additional 30-day period. The change to 22 VAC 40-601-50 adopts the federal option to deny SNAP applications if the application remains unprocessed after 30 days when there is a lack of verification or information needed. The denial notice will advise applicants that required information provided on or before the 60th day following the application date will result in a reinstatement of the denied application and that the eligibility worker will continue the evaluation of the application. The reinstatement and evaluation process results in the same outcome that occurs as a result of the current process of holding the application in a pending, unprocessed status, so there is no loss of program benefits to applicants. This regulatory action potentially reduces work activities of local eligibility staff, as a significant number of SNAP applications are denied because information is not provided by the end of the processing period.

This regulatory action also adopts a federal option that allows states to provide the transitional benefits component to some SNAP households. Households that are eligible for the transitional benefits component through the change to 22 VAC 40-601-60 will be those households with children whose state-funded program benefits end. Transitional SNAP benefits allow recipient households to continue to receive SNAP benefits without immediately considering household changes that caused the loss of public assistance income. Transitional SNAP benefits are currently provided when the household's Temporary Assistance for Needy Families (TANF) case has close. This component allows households to receive benefits for up to five months using special calculation provisions that exclude counting public assistance

income. States may expand transitional benefits to include households with children that receive state maintenance-of-effort (MOE) funds for the TANF block grant or state funds that do not count toward the state MOE requirements. The Department of Social Services (DSS) would like to expand transitional benefits to include the closure of state-funded programs that count toward the TANF MOE requirement, such as the VIEW Transitional Payment (VTP) component, or state-funded programs that do not count toward the TANF MOE requirement, such as the General Relief Program and the Unemployed Parents Program.

FCEA renamed the Food Stamp Program to the Supplemental Nutrition Assistance Program at the federal level, but states are free to choose any name, including keeping the Food Stamp Program. The name change recognizes the transformation that has occurred in the program in the delivery of benefits. Benefits are issued electronically now instead of through paper coupons or stamps. DSS evaluated the program name and determined that adopting SNAP lessens confusion by local and state staff and program applicants and participants as all references, guidance documents, and instructions provided by the U.S. Department of Agriculture will identify the program as SNAP instead of food stamps. The name change emphasizes the supplemental nature of the program in providing benefits to low-income Virginians. The name change may also shield participating or applicant households from negative connotations associated with receiving public assistance which may cause them to avoid receiving assistance that might alleviate instances of food insecurity.

This regulatory action will not affect the health or safety of citizens.

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.

22 VAC 40-601-50 will require local eligibility workers to deny SNAP applications that are unprocessed as of the 30th day following the application date if the applicant has failed to provide information or failed to take actions needed to determine eligibility for benefits. The eligibility worker must notify applicants of the denial and provide the actions or information needed to be taken within the next 30 days in order to rescind the denial. Applicants will not need to submit a new application to have the local department of social services reopen the case and consider newly submitted information.

22 VAC 40-601-60 will allow SNAP households to receive transitional SNAP benefits when state-funded cash benefits end. It will allow households that receive state-funded benefits to receive transitional benefits, just as households that receive TANF cash assistance benefits do. Transitional SNAP benefits allow eligible households to receive benefits for up to five months without a new application while the households adjust to the loss of terminated income.

This regulatory action also revises all references in the regulation to the "Food Stamp Program" and "food stamps" to the "Supplemental Nutrition Assistance Program (SNAP)" and "SNAP benefits."

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 there are no disadvantages to the public or the Commonwealth, please indicate.

22 VAC 40-601-50 offers advantages to workers of local departments of social services by requiring denial of SNAP applications that are abandoned by the applicant. Instead of holding applications in a pending status for up to 60 days, the application would be denied after 30 days if applicants fail to provide requested verification or information to process the application. If applicants subsequently provide the requested verification or information, the local department must reactivate the application and continue processing it. Eligible households will receive the same amount of benefits with implementation of this amendment as they would under current processes.

22 VAC 40-601-60 provides advantages to recipient SNAP households whose TANF or state-funded programs end, as the SNAP benefit amount is held constant for up to five months regardless of the current circumstances. Households may elect to withdraw from the transitional benefits component in order to have current circumstances evaluated if substantial changes exist in addition to the loss of the public assistance income. This provision neither offers advantages nor disadvantages to local social services staff.

Changing the program name benefits low-income Virginians who may not have applied for food assistance because of a perceived stigma of receiving public assistance. The name change should also benefit participant households by emphasizing the importance of the program in supplementing household budgets in meeting their nutritional needs. The name change assists workers of local departments of social services to avoid confusion when working with federal guidance.

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 at proposed stage	What has changed	Rationale for change
10	Identification of the legislative act in the definitions of an "Access device" and an "Intentional program violation" is the Food Stamp Act of 1977 and the Food Stamp Act, respectively.	Identification of the legislative act in the definition of an "Access device" and an "Intentional program violation" was changed to the Food and Nutrition Act of 2008 and the Food and Nutrition Act, respectively.	Governing legislation was reenacted and renamed.

Public comment

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

Commenter	Comment	Agency response
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Andrew Parramore	The commenter expressed concern about the costs involved with changing the name of the program.	Changing the program's name occurred gradually. Computer changes and changes to the manual and program materials generally occurred at the same time as other program changes were made.
Hollie R	The commenter expressed concerns about her inability to receive assistance.	The proposed regulatory action will have no bearing on the concerns addressed by the commenter.

No comments were received during the public hearing held on February 17, 2010.

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
10, 40		Definitions used in the regulation are provided and procedures for administrative hearings are outlined. There are references to the Food Stamp Program, food stamp benefits and the Food Stamp Act.	Acronyms and definitions used in the regulation are defined and procedures for administrative hearings are outlined. References to the Food Stamp Program and food stamp benefits were changed to the Supplemental Nutrition Assistance Program and SNAP benefits. References to the Food Stamp Act were changed to the Food and Nutrition Act.
	50	Applications for SNAP benefits must be disposed of within 30 days. Applicants have 30 days to provide verification or information needed to determine the eligibility of the household. If an application cannot be processed by the 30 th day because such information is lacking due to the fault of the applicant, the application must be held pending for an additional 30-day period. If the applicant provides the information during the next 30 days, the local agency must determine eligibility and	Applications for SNAP benefits must be disposed of within 30 days. Applicants have 30 days to provide verification or information needed to determine the eligibility of the household. If an application cannot be processed by the 30 th day because such information is lacking due to the fault of the applicant, the application must be denied. If the applicant provides the information during the next 30 days, the local agency must reinstate the application and prorate benefits to the

		<p>prorate benefits to the date the last verification was provided. If the household fails to take the required actions, the application is denied on the 60th day.</p>	<p>date the last verification was provided.</p> <p>The proposed amendment is intended to dispose of applications as soon as administratively possible if applicants seemingly abandon the application when they fail to provide information timely.</p>
	60	<p>Transitional SNAP benefits will apply to households whose federally funded public assistance programs end. Transitional SNAP benefits will apply only to households with children.</p>	<p>Transitional SNAP benefits will apply to households whose state-funded programs or benefits end in the same manner as federally funded public assistance programs. Transitional SNAP benefits will apply only to households with children. The state-funded programs may or may not be counted toward the maintenance-of-effort requirements needed for TANF block grant.</p> <p>Transitional SNAP benefits may be provided to household for up to five months to allow households to adjust to the financial loss of public assistance income. Transitional benefits are intended to encourage households to provide financial support for themselves and their children with a gradual move to independence.</p>

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Only one alternative exists for each proposed amendment. DSS is currently operating with those alternatives. DSS settled on the name used for federal purposes to lessen confusion of the program recipients and staff. Consideration was given to retaining the original name and other names were evaluated as well.

Family impact

Please assess the 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.

This regulatory action neither strengthens nor erodes nurturing relationships between parents and their children, nor does it alter the rights of parents to direct the education or supervision of children. This regulatory action neither encourages nor discourages economic self-sufficiency or self-pride, nor does it alter responsibility for oneself or family or affect marital commitment.

The change to 22 VAC 40-601-50 encourages personal responsibility. Applicant households receive prorated benefits based on the date an application is filed. Households will also receive benefits for the month of application if the household provides information within 30 days of the filing date. If the household delays in submitting information or in taking required actions until after the 30th day, the household loses entitlement to benefits for the application month. The impact of the regulation is minimized by allowing the household an opportunity to submit information after the application has been denied as long as such action is taken within 60 days of the original application date. Benefits will be calculated based on the date the information is submitted. There is no requirement to file another application unless the information is provided after the 60th day.

This regulatory action does not change the standards for determining which households are eligible for SNAP benefits and, therefore, should not alter disposable family income. However, expanding the transitional benefits component through 22 VAC 40-601-60 to include additional households should affect certain households' disposable income by allowing households to continue to receive SNAP benefits at a higher level for up to five months to offset the loss of cash benefits. The amount of SNAP benefits a household receives helps to supplement the amount of money available for food purchases.