



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22VAC40-295
Regulation title	Temporary Assistance for Needy Families
Action title	Temporary Assistance for Needy Families Penalties for Spending Violations
Date this document prepared	October 17, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The intent of the proposed action is to amend the Temporary Assistance for Needy Families (TANF) regulation by adding penalties for persons violating spending restrictions. The Code of Virginia, § 63.2-621, states that TANF recipients may not access TANF benefits through electronic transactions for the purchase of alcoholic beverages, tobacco products, lottery tickets, or sexually explicit visual materials. In addition, TANF electronic benefit transactions shall not take place in any government store established for the sale of alcoholic beverages, any establishment in which pari-mutuel wagering or charitable gaming is conducted, an establishment in which tattooing or body-piercing is performed, or any establishment that provides adult-oriented entertainment. The regulation will provide for the imposition of penalties for violation of the provisions of the Code of Virginia § 63.2-621.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Pursuant to § 63.2-217 of the Code of Virginia, the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. The Code of Virginia, § 63.2-621, provides that TANF recipients may not access TANF benefits through electronic transactions for the purchase of alcoholic beverages, tobacco products, lottery tickets, or sexually explicit visual materials. In addition, TANF electronic benefit transactions shall not take place in any government store established for the sale of alcoholic beverages, any establishment in which pari-mutuel wagering or charitable gaming is conducted, an establishment in which tattooing or body-piercing is performed, or any establishment that provides adult-oriented entertainment.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

There are currently no penalties associated with violation of § 63.2-621 of the Code of Virginia. The proposed regulatory action will add penalties to ensure that there is a consequence to the misuse of TANF benefits. TANF recipients who use their benefits appropriately and as intended, for their health and welfare, will avoid these penalties. The amount and the length of the penalties will be specified in the regulation.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

A new section will be added to the regulation. Recipients of TANF that violate the provisions of § 63.2-621 will be penalized with the progressive loss of benefits. The first offense will result in the loss of TANF financial assistance for one month. The second offense will result in the loss of TANF financial assistance for three months. Subsequent offenses will result in the loss of TANF financial assistance for six months.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

The program could continue to be operated without a penalty for violating § 63.2-621 of the Code of Virginia. However, this does not meet the intent of § 63.2-621 of the Code of Virginia nor will it do anything to prevent such violations from happening.

One alternative is to reduce the amount of the grant by removing only the adult caretaker. This would reduce the grant amount by approximately \$60 per month. In many cases, such as when a grandparent

is receiving assistance on behalf of her grandchildren, the caretaker is not actually receiving assistance. Therefore, no penalty would be imposed in these cases.

Another alternative would be to alter the proposed sanction times. The length of the proposed sanctions were selected because they are the same penalties for participants that fail or refuse to comply with the requirements of the employment and training program, the Virginia Initiative for Employment not Welfare (VIEW.)

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation. A panel will not be used.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Mark L. Golden, 801 E. Main Street, Richmond, VA 23219, 804-726-7385, fax - 804-726-7357, or mark.golden@dss.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

Family impact

Assess 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.

While the proposed regulation will negatively impact families receiving TANF by temporarily terminating assistance, the overall impact is positive. It will create a disincentive to transact TANF benefits at

establishments and for products that are prohibited by state law. The likelihood that benefits will be used as intended, to meet the families subsistence needs, will increase.