



COMMONWEALTH of VIRGINIA

Office of the Attorney General
Richmond 23219

Mark R. Herring
Attorney General

900 East Main Street
Richmond, Virginia 23219
804 - 786 - 2071
804 - 371 - 8946 TDD

TO: MARGARET SCHULTZE, Commissioner
Virginia Department of Social Services

FROM: ERIC J. REYNOLDS 
Assistant Attorney General

DATE: March 31, 2014

SUBJECT: New Regulation Section - 22 VAC40-295 (TANF)

I am in receipt of the attached regulation regarding restrictions on the use of Temporary Assistance for Needy Families ("TANF") cash assistance pursuant to Va. Code § 63.2-621. You have asked the Office of the Attorney General to review and determine if the State Board of the Virginia Department of Social Services has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state and federal law.

Va. Code § 63.2-621, enacted in 2013, prohibits TANF recipients from using TANF benefits through an electronic benefit transaction for the purchase of alcoholic beverages, tobacco products, lottery tickets, or sexually explicit visual materials or in any transaction in a Virginia Alcoholic Beverage Control Store, an establishment in which pari-mutuel wagering or charitable gaming is conducted, an establishment in which tattooing or body-piercing is performed, or in any establishment that provides adult-oriented entertainment in which performers or other individuals connected to the business appear nude or partially nude. The proposed regulation provides for penalties for TANF recipients who violate Va. Code § 63.2-621.

It is my opinion that the State Board of DSS has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA") and has not exceeded that authority.

It is my view that this regulation is not exempt from but is subject to the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(a). If you have any questions or need additional information about these regulations, please contact me at 786-3450.

cc: Kim F. Piner, Esquire
Attachment

Project 3813 - Proposed

DEPARTMENT OF SOCIAL SERVICES

Temporary Assistance for Needy Families Penalties for Spending Violations

22VAC40-295-145. Sanctions for violating spending restrictions.

Local departments of social services shall be authorized to sanction recipients of TANF by the full amount of the TANF grant for violating the TANF spending restrictions in the Code of Virginia §63.2-621, as follows:

1. For the first offense, the full amount of TANF benefits for the family shall be suspended for one calendar month.
2. For the second offense, the full amount of TANF benefits for the family shall be suspended for three calendar months.
3. For the third or subsequent offenses, the full amount of TANF benefits for the family shall be suspended for six calendar months.