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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-221
VAC Chapter title(s)	Additional Daily Supervision Rate Structure
Date this document prepared	June 19, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

LDSS-Local departments of social services
VDSS-Virginia Department of Social Services
ADS-Additional daily supervision
URAT- Uniform Rate Assessment Tool

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 63.2-217 of the Code of Virginia gives the State Board of Social Services the responsibility to make rules and regulations to administer social services in the Commonwealth under Title 63.2 of the Code of Virginia.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

The regulation establishes clear and uniform standards for local departments of social services (LDSS) to determine the additional daily supervision (ADS) payments for foster and adoptive parents and prospective relative custodians who meet the criteria for kinship guardianship assistance. This regulation is the least burdensome alternative. It ensures consistency across the state, prevents discrimination, promotes long-term cost savings, and safeguards the financial stability needed to continue funding programs.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response

There were no public comments received during the public comment period that ended on December 11, 2023.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation is essential to protect the health, safety, and welfare of citizens because it provides standards for LDSS to determine the amounts of ADS payments for foster and adoptive parents as well as prospective relative custodians who meet the criteria for kinship guardianship assistance. The regulation is clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The agency recommends the regulation be amended. A periodic review of 22VAC40-221 revealed inconsistencies in how VDSS uses the terms Enhanced Maintenance and ADS, as they are interchangeable. To provide clarity and promote statewide consistency, VDSS will use the term ADS when referencing a payment determined by the Uniform Rate Assessment Tool (URAT). In addition, language should be added to require that ADS be offered to all foster, adoptive, and kinship families regardless of their status of therapeutic or non-therapeutic and to amend the timeframe for the re-administration of the URAT from three to six months for the purpose of determining ADS payments for adoption assistance. Language should be added to incorporate Virginia's kinship guardianship assistance program. Lastly, all references to the Child and Family Services Manual must be removed to make this chapter consistent with other chapters of regulation.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to 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, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The regulation is necessary because it provides guidance to the LDSS on the timeframe in administering the URAT. No complaints or comments were received during the review. The regulation does not duplicate or conflict with any federal or state law. The regulation has no impact on small business, as it does not include any language that prescribes limitations or requirements on small business. The regulation was last reviewed in 2018 and no changes in technology or other factors impact the regulation.
