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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22VAC40-780
<b>Regulation title(s)</b>	Elimination of Financial Eligibility Criteria for Direct Social Services
<b>Action title</b>	Amend Financial Eligibility Criteria
<b>Date this document prepared</b>	August 19, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

This regulatory action makes two changes to 22VAC40-780. The first is to simplify the name. At the time of the regulation's introduction in 1985, the purpose may have been to eliminate some eligibility criteria related to the provision of direct social services; however, the regulation now simply provides authority for local departments of social services (LDSS) to provide direct services to families who are found to be eligible in one of three categories. The second change is to remove language in section 60 which makes reference to employment services programs. Employment services programs are benefit/public assistance programs rather than social services programs, so the reference in this regulation is unnecessary.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.*

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LDSS – local department(s) of social services

### 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.*

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The State Board of Social Services approved this Fast-Track regulatory action for 22VAC40-780 on August 19, 2015.

### 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.*

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Section 63.2-217 of the Code of Virginia (Code) provides the authority for the State Board of Social Services to adopt regulations to carry out the purpose of Title 63.2. Section 63.2-319 of the Code requires LDSS to provide child welfare and other services. Section 63.2-407 of the Code provides that counties and cities may provide public assistance and social services as authorized by the State Board of Social Services.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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.*

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The purpose of the regulatory action is to change the title of the regulation to make it more accurately reflect the regulation’s content and purpose. It is also to remove unnecessary language that may cause individuals to think the regulation addresses services delivered as part of public assistance programs. This regulation is essential in that it provides authority for LDSS to provide direct services impacting the safety of children and the welfare of children and their families.

### Rationale for using fast-track process

*Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

The fast-track process is appropriate for the promulgation of this regulatory action because the two changes being made are simple and intended to clarify and it is unlikely any one would comment on them. In the past two periodic reviews of this regulation, including the most recent one ending June 8, 2015, no comments were received.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.*

The title of the regulation is being changed from "Elimination of Financial Eligibility for Direct Social Services" to "Eligibility for Direct Social Services". In section 60, a sentence stating that all persons needing social services may be served on a universal access basis, except for services delivered a part of an employment services program, is being changed to remove the reference to employment services programs.

### 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.*

The regulation is being changed to clarify the title and remove unnecessary language. More clarity in the regulation is an advantage to the public and to the LDSS that use this regulation for authority for their provision of direct social services. There are no disadvantages to the public or the Commonwealth.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no requirements that exceed applicable federal requirements.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There are no localities particularly affected by the proposed regulatory action.

### Regulatory flexibility analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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.*

The regulation itself provides authority for LDSS to provide direct social services. The amendments being made by this regulatory action clarify the title and remove unnecessary language. The regulation does not impact small business and does not have reporting requirements.

### Economic impact

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including:</b>  <b>a) fund source / fund detail; and</b>  <b>b) a delineation of one-time versus on-going expenditures</b></p>	<p>The two changes to this regulation do not have cost to the state.</p>
<p><b>Projected cost of the new regulations or changes to existing regulations on localities.</b></p>	<p>There is no cost to the localities for this action.</p>
<p><b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</b></p>	<p>This regulation affects local departments of social services.</p>
<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that:  a) is independently owned and operated and;  b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 120 local departments of social services. No small businesses are affected.</p>
<p><b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</b></p>	<p>There are no projected costs for this regulatory action.</p>

<p><b>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b></p>	
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>This regulatory action is intended to make the title of the regulation more accurate and remove unnecessary language.</p>

### Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

There is no other way to accomplish the clarifying name change than through the regulatory process.

### Public participation notice

*If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

### Periodic review and small business impact review report of findings

*If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include 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 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.*

There were no comments received during the public comment period. The regulation is necessary for LDSS in their work and the changes being made to the regulation are intended to ensure the regulation is clearly written and easily understandable. The regulation continues to be necessary to provide authority for the provision of direct social services. The public comment period for the most recent periodic review ended June 8, 2015.

## Family impact

*Please assess the impact of this 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 does not have an impact on families. It makes clarifying changes to the title and one sentence in an existing regulation which does impact families in that it provides the authority for LDSS to provide direct social services.

## Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please list separately: (1) all differences between the **pre-emergency** regulation and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
60		<p>Currently the regulation is titled “Elimination of Financial Eligibility for Direct Social Services.”</p> <p>The current language related to Universal Access contains a statement excepting services being delivered as part of an employment services program from being delivered as Universal Access.</p>	<p>The tile is being changed to “Eligibility for Direct Social Services”</p> <p>The current title is confusing. The title of this regulation sounds more like an action title that may have been correct in 1985 when changes may have been made to how eligibility for some services was determined. The title implies change, but the regulation has basically remained the same since that time.</p> <p>The language referencing employment services programs is being deleted. This regulation addresses eligibility and delivery of social services, so the language referencing services that are part of a public assistance program is not necessary.</p>

