



**Virginia
Regulatory
Town Hall**

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-660
Regulation Title:	Child Day Care Services Policy
Action Title:	Proposed
Date:	April 20, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The regulation is essential to protect the health, safety, and welfare of children and families by providing the authority for the Commonwealth to continue its child day care program, which assists eligible low-income families with needed child day care.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The regulation is mandated by the Personal Responsibility/Work Opportunity Reconciliation Act of 1996 (Public Law 104-193, Title VI, Child Care), which the federal Department of Health and Human Services calls the Child Care Development Fund. The Code of Virginia, Section 63.1-25 gives the State Board of Social Services the authority to make necessary rules and regulations.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The regulation will reflect changes in federal regulations due to passage of Public Law 104-198 and contents of the required state Child Care and Development Fund Plan. Additional changes reflect action of the General Assembly, a modified directive from another state agency, instruction from the Attorney General's Office to insert additional language from the current agency policy manual that affects customers' rights and benefits, and clarification of the existing regulation.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

It is necessary to have a regulation in place to support statewide policy in the implementation of the Child Care and Development Fund Services Plan. Localities need the legal authority to expend funds on behalf of eligible families and need policies to guide their work in order that all families are treated fairly.

Family Impact Statement

Please provide a preliminary analysis of 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.

This regulation will enable local social services agencies to expend funds for eligible families for needed child day care services in order to secure work and remain employed. The funds will assist them in meeting the costs of child day care so that a larger portion of limited family income can be used for basic needs such as food, shelter and clothing. All families receiving child day care subsidies will have the opportunity to choose any legally operating child care.

Current Section	Proposed Section	Change	Justification	Advantage to Public and/or State	Disadvantage to Public and/or State
Part I Definitions					
22 VAC 40-660-10	22 VAC 40-660-10	Added definitions of administrative disqualification hearing, approved provider, Child Care and Development Fund, child day care services, child in need of supervision, citizen, diversionary case assistance, federal poverty level, fee system, fraud, Head Start to Work, intentional program violation, local agency approval, qualified alien, relative provider, recipient, sanction, state regulated provider, support services, Temporary Assistance to Needy Families (TANF), TANF-UP, Virginia Independence Program (VIP), Virginia Initiative for Employment Not Welfare (VIEW)	Changes in federal and state law; requirements in federal and state law/regulations; consistency with policy manual	Provides authority for program administration; clarity for staff, parents and providers	None

22 VAC 40-660-10	22 VAC 660-10	Deleted definitions of Aid to Families with Dependent Children (AFDC), Aid to Families with Dependent Children Unemployed Parent (AFDC UP), At Risk Child Care, child day program, day care center, deprivation, education leading to employment, Employment Services Program (ESP), Federal Title IV-A Funding, full time employment, on the job training, part-time employment, postsecondary education, provider, purchase of service order, regulation, state median income, TRADE, training leading to employment, USDA Child and Adult Care Food Program, vendor, voluntary small family child care home registration, work experience	Same as above	Same as above	None
22 VAC 40-660-10	22 VAC 660-10	Changed definition of good cause, income eligible, in-home day care provider, resource and referral services, satisfactory progress, transitional child day care services, unregulated provider	Same as above	Same as above	None

Part II					
Policy					
22 VAC 40-660-30 A and B	22 VAC 660-30	Replaced old federal and state categories with current federal and state categories	Same as above	Same as above	None
22 VAC 40-660-30	22 VAC 660-30	Replaced term programs with term eligibility categories	Clarity	Easier to understand	None
22 VAC 40-660-30 B	22 VAC 660-30 B	Reordered Food Stamp Employment and Training and added Head Start to Work, child protective services and children in need of supervision to eligibility categories, with parameters for receipt of subsidy	Conforms with state plan and policy manual	Provides authority for program administration; clarity for staff, parents and providers	None
22 VAC 40-660-30 A	22 VAC 40-660-30 A	Deleted reference to foster care payments	Inaccurate information	Same as above	None
22 VAC 40-660-30 A	22 VAC 40-660-30 A.1	Added parameters for TANF recipients to receive subsidy	Changes in federal and state law; requirements in federal and state law/regulations; consistency with policy manual	Same as above	None
22 VAC 40-660-30 A.2	22 VAC 40-660-30 B	Added reasons for use of fee system subsidy	Same as above	Same as above	None
22 VAC 40-660-30 B.2	22 VAC 40-660-30 B	Added income groups for fee system	Same as above	Same as above	None
22 VAC 40-660-30 B.2	22 VAC 40-660-30	Deleted reference to fee system/at risk and AFDC	Obsolete	Same as above	None
22 VAC 40-660-30	22 VAC 40-660-30 B.2.a	Added parameters for receipt of transitional child day care subsidy	Changes in federal and state law; requirements in federal and state law/regulations; consistency with policy manual	Same as above	None

22 VAC 40-660-40	22 VAC 40-660-40	Added requirement for all responsible persons to show good cause for not providing care prior to receipt of subsidy	Clarity; incorporates information in policy manual	Same as above	None
22 VAC 40-660-50	22 VAC 40-660-50 A	Added categories of providers who may provide subsidies	Same as above	Same as above	None
22 VAC 40-660-60 A	22 VAC 40-660-50 B	Added city/county regulated	Same as above	Same as above	None
22 VAC 40-660-60 A	22 VAC 40-660-50 B	Deleted exclusion of relatives from requirement	Changes in federal and state law; requirements in federal and state law/regulations; consistency with policy manual	Same as above	None
22 VAC 40-660-60	22 VAC 40-660-50 B	Added requirement of providers to provide sworn statement/affirmation	Same as above	Same as above	None
22 VAC 40-660-60 A	22 VAC 40-660-50 B	Deleted exclusion of persons other than provider in in-home care to obtain clearances	Same as above	Same as above	None
22 VAC 40-660-60 A	22 VAC 40-660-50 B	Added option of documentation of absence of risk factors in addition to tuberculosis test	Same as above	Same as above	None
22 VAC 40-660 60 B	22 VAC 40-660-50 B	Clarified that only unregulated providers complete a Health and Safety Checklist	Clarity; incorporates information in policy manual	Same as above	None
22 VAC 40-660-80	22 VAC 40-660-60 B	Added factors for determining eligibility for services	Changes in federal and state law; requirements in federal and state law/regulations; consistency with policy manual	Same as above	None
22 VAC 40-660-80 A.1	22 VAC 40-660-60 C	Deleted references to obsolete federal programs	Same as above	Same as above	None
22 VAC 40-660-80	22 VAC 40-660-60 D	Added parameters for subsidy for education and training	Same as above	Same as above	None

22 VAC 40-660-80 A.2	22 VAC 40-660-60 E	Deleted reference to resource and referral and replaced with consumer education	Same as above	Same as above	None
22 VAC 40-660-80 A.3	22 VAC 40-660-60 F	Changed requirement for parental report of changes	Clarity; incorporates information in policy manual	Same as above	None
22 VAC 40-660-80 A.3	22 VAC 40-660-60 F	Expanded requirement of single parents to register with and cooperate with Child Support Enforcement	Same as above	Same as above	None
22 VAC 40-660-80 B	22 VAC 40-660-60 G	Added to requirements for quarterly contacts and reassessments	Same as above	Same as above	None
22 VAC 40-660-80 C	22 VAC 40-660-60 H	Added reasons for terminating subsidy	Same as above	Same as above	None
22 VAC 40-660-80 C	22 VAC 40-660-60 I	Clarified that fee system available to extent of available funding	Same as above	Same as above	None
22 VAC 40-660-80 D	22 VAC 40-660-60 I	Clarified placement of cases on waiting list when closure due to over obligation of funds	Incorporates new circumstances	Same as above	None
22 VAC 40-660-90 A	22 VAC 40-660-70	Updated method for payment of provider	Clarity; incorporates information from policy manual	Same as above	None
22 VAC 40-660-90 A	22 VAC 40-660-70	Replaced AFDC with TANF	Same as above	Same as above	None
22 VAC 40-660-100 B	22 VAC 40-660-80	Added market rate for out-of-state provider	Same as above	Same as above	None
22 VAC 40-660-100.1	22 VAC 40-660-80	Added requirement of local board to approve use of local only funds	Same as above	Same as above	None
22 VAC 40-660-100.1	22 VAC 40-660-80	Added minimum payment requirements for in-home care	Same as above	Same as above	None
22 VAC 40-660-100.2	22 VAC 40-660-80	Clarified what unit of service price to use per hours of care	Same as above	Same as above	None

22 VAC 40-660-100.2	22 VAC 40-660-80	Clarified when transportation costs may be added	Same as above	Same as above	None
22 VAC 40-660-100.3	22 VAC 40-660-80	Added local options for purchasing care	Same as above	Same as above	None
22 VAC 40-660-100	22 VAC 40-660-80	Added vendor payment date when administrative delay	Same as above	Same as above	None
22 VAC 40-660-100.4	22 VAC 40-660-80	Clarified date for initiating Transitional child day care	Same as above	Same as above	None
22 VAC 40-660-100.5	22 VAC 40-660-90	Replaced SMI with current requirements for fee payment	Changes in federal and state law; requirements in federal and state law/regulations; consistency with policy manual	Same as above	None
22 VAC 40-660-100.5	22 VAC 40-660-90	Clarified process for localities to request fee scale waivers	Clarity; incorporates information in policy manual	Same as above	None
22 VAC 40-660-100.5	22 VAC 40-660-90	Clarified maximum of five years option for local agencies	Same as above	Same as above	None
22 VAC 40-660-100.5	22 VAC 40-660-90	Added requirement to develop funding plan	Same as above	Same as above	None
NA	22 40-VAC 660-100	Added policy for fraud and non fraud overpayment	Changes in federal and state law; requirements in federal and state law/regulations; consistency with policy manual	Same as above	None
NA	22 VAC 40-660-100	Added reasons for disqualification	Same as above	Same as above	None
22 40-660-100	NA	Deleted references to policy forms	Not required	Same as above	None