



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Robert F. McDonnell
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: L. RICHARD MARTIN, JR.
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Assistant Attorney General

DATE: April 11, 2008

SUBJECT: Proposed Regulation 22 VAC 40-411
General Relief Program

I have reviewed the above-referenced proposed regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulation and if this action by the State Board comports with applicable state law. This regulatory action also was reviewed to determine if the State Board has the statutory authority to repeal four regulations, 22 VAC 40-410 General Relief Program Entitlement Date; 22 VAC 40-570 General Relief Program Locality Options; 22 VAC 40-630 General Relief Disability Advocacy Project; 22 VAC 40-640 General Relief Program-Deeming Income from Alien Sponsors. The repealed regulations are being consolidated and replaced by the proposed regulation.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2. Virginia Code § 63.2-802 provides for the establishment of a general relief program. It appears that the State Board has the authority to repeal the existing regulations and promulgate the proposed replacement regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 36 (2006), and has not exceeded that authority.

If you have any questions, please feel free to call me at 786-0095.