

# Regulatory Review Checklist

TO ACCOMPANY PRELIMINARY DETERMINATION PACKAGE

Age

**Regulation title** 22 VAC 40-030-10 et seq.  
Food Stamp Program - Resource Exclusion

**Purpose of the regulation** The regulation allows food stamp households an opportunity to have a savings account that will be excluded in determining the household's countable resources. The regulation is intended to promote self-sufficiency by enabling Virginians to save money, without penalty, to further education or to gain permanency in the community through the purchase of a house.

## **Summary of items attached:**

**Item 1:** An explanation of the specific reason for the proposed regulation.

The Virginia General Assembly acted to exclude a special or restricted savings account for each household applying for or receiving food stamps. The 1993 legislation required that the Secretary of Health and Human Resources would seek federal waivers to implement the act. A waiver was requested and received from the U.S. Department of Agriculture because federal regulations exclude only specified resources. The regulation adds the exclusion of an interest-bearing savings account as a countable resource for food stamps as long as the account is less than \$5,000 and that it is saved for any level of education or toward the down payment of a house.

**Item 2:** A statement identifying the source of the agency legal authority to promulgate the contemplated regulations and a statement as to whether the contemplated regulation is mandated by state law or federal law or regulation, and, if mandated in whole or in part, a succinct statement of the source (including legal citation) and scope of the mandate.

§ 63.1-25.2 of the Code of Virginia provides the State Board of Social Services the authority to operate a food stamp program in accordance with federal rules and regulations. §63.1-110 of the Code of Virginia mandates the exclusion of an interest-bearing savings account, up to \$5,000 for school-related expenses or toward the purchase of a residence. Regulations at Title 7 of the Code of Federal Regulations §273.8(e) mandates the exclusion of specific resources. These exclusions do not include accessible savings accounts. A waiver of the federal regulations was granted.

**Item 3:** A statement setting forth the reasoning by which the agency has concluded that

the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function.

The regulation was needed to implement a state law. No alternatives regarding the resource exclusion were evaluated because the mandate was so specific that little room was available. Alternatives were evaluated to determine the penalties for withdrawing money from the account for reasons other than education or housing. The decision to consider such improper withdrawals as an available resource was made in conjunction with other social service benefit programs.

**Item 4:** A statement describing the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered or to be considered(to the extent known), and the reasoning by which the agency has rejected any of the alternatives considered.

Repealing the regulation is the less intrusive alternative than pursuing efforts to continue to seek waivers from the federal policy. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the request for waivers of federal policy for the Food Stamp Program must be measured against overall program costs and must result in the costs being neutral. The request to extend the waiver of federal regulation was not approved. No future changes are expected to generate cost savings through Virginia-specific program initiatives such that additional waiver requests would be unlikely to be approved.

**Item 5:** A statement describing the impact that the proposed regulation is likely to have on family formation, stability and autonomy.

The proposed action to repeal the regulation that allows special savings accounts will not impact the formation or stability of families. Some food stamp households will be impacted as result of a denial of benefits when countable resources, now including the previously excluded savings account for housing or education, exceed the resource eligibility limit.

Signature of Agency head

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Date forwarded to  
DPB & Secretary

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