



Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 - 601
Regulation title	Food Stamp Program
Action title	Repeal food stamp regulations and replace with a comprehensive regulation
Date this document prepared	December 6, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

This is a joint action to repeal three regulations that affect different aspects of the Food Stamp Program and incorporate them into a single regulation. There are no substantive changes between the new regulation and the three regulations being repealed. This action will streamline the regulatory structure for the Food Stamp Program as the new regulation, 22 VAC40-601, will serve as a comprehensive regulation for the Food Stamp Program. The regulation addresses eligibility determination and benefit calculation through the conversion of weekly or biweekly income to monthly amounts and the use of a standard amount for the basic cost for telephone service. The regulation also includes an administrative hearing process to determine intentional program violations. The regulations being repealed are 22 VAC 40-20, 22 VAC 40-540, and 22 VAC 40-600. There were no changes to the regulation from publication of the proposed regulation to the final regulation.

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.

The State Board of Social Services took final action on 22 VAC 40-601, Food Stamp Program, on December 6, 2006.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. Part 271.4 of Title 7 of the Code of Federal Regulations delegates responsibility to administer the Food Stamp Program within a state to the agency assigned responsibility for other federally funded public assistance programs. Section 63.2-524 of the Code of Virginia authorizes the State Board of Social Services to pursue regulations governing administrative hearings.

Purpose

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

This is a joint action to repeal three regulations related to the Food Stamp Program and replace them with a single comprehensive regulation. The proposed regulation outlines processes that are not mandated by federal or state law or regulation. Procedures in the regulation apply to the eligibility determination process for the Food Stamp Program and the process to calculate the amount of food stamp benefits eligible households receive. The regulation also outlines an administrative disqualification hearing process to determine when households receive benefits to which they are not entitled.

The regulation ensures that local workers perform the eligibility determination process and the calculation of benefits uniformly for all households by using the same standard for telephone expenses and by converting income to monthly amounts. The regulation also requires uniform evaluation for determining if individuals intentionally break program rules to obtain benefits to which they are not entitled. Uniform application of program rules protects the general welfare of food stamp applicant and recipient households. The regulation does not address environmental benefits or provide for the health or safety of citizens.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The regulation covers issues related to the Food Stamp Program that were previously addressed in three separate regulations. There are no substantive changes between the proposed regulation and the three separate regulations being repealed.

The regulation addresses the conversion of income to monthly amounts. Local social services workers must use conversion factors of 4.3 for weekly income amounts and 2.15 for biweekly amounts when calculating income to determine households' eligibility and benefit levels.

The regulation also addresses using a standard amount for basic telephone costs for use in calculating food stamp eligibility and benefit level. Local workers must use a set standard amount for all households for telephone costs instead of actual costs.

The regulation outlines the administrative disqualification hearing process to determine whether food stamp recipients have committed fraudulent acts against the program; to identify persons who commit program violations and to disqualify them from participation; and, to establish requirements to advise individuals of the process, findings, and consequences.

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 provisions of this regulation offer advantages to workers of local departments of social services when they determine eligibility for households applying for food stamp benefits. Workers must determine eligibility and benefit level based on the amount of income applicants expect to receive in a month. Using a conversion factor with an averaged amount in the calculation allows workers to certify households for longer periods rather than attempt to guess at the exact amount that will be received in any given month. Eligibility calculations are done prospectively instead of retrospectively.

Use of conversion-factored income offers advantages to applying and recipient households through the assignment of longer eligibility periods before needing to reapply for benefits. This process is also beneficial to households by leveling monthly income. A stable or even view of eligibility occurs by excluding periodic fluctuations or income that results from a fifth weekly pay period or a third biweekly period when calendar months have additional periods.

Use of a standard telephone amount benefits households and the department by no longer requiring applicants to provide actual telephone bills to verify the expense. This is beneficial to the department by using the time of eligibility staff more efficiently instead of pursuing telephone bills to determine the

basic rate for each household. Use of a standard amount for all households is less error prone than evaluating actual expenses.

The procedures for conducting administrative disqualification hearings for the program offer uniform application of the process to determine if households intentionally provide incorrect or misleading information to receive food stamp benefits to which they are not entitled. Uniform guidelines offer protections to households instead of a process that is variable or subject to change.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There have been no changes made to the text since the publication of the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No comments were received.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22 VAC 40-600-10	22 VAC 40-601-10	Definitions	Definition of local department was added.
22 VAC 40-20-10	22 VAC 40-601-20	A conversion factor of 4.3 is used to convert weekly income to a monthly amount and 2.15 is used for biweekly income amounts.	No change
22 VAC 40-540-10	22 VAC 40-601-30	Households may not use the actual telephone expense to determine the total shelter amount. Households must use a set standard amount.	No change

<p>22 VAC 40-600-20 et seq.</p>	<p>22 VAC 40-601-40</p>	<p>Local social services workers must refer cases to court or through the administrative hearing to determine if an individual has committed an intentional act to receive benefits.</p> <p>Duties are identified for the hearing officer and rights of the household are listed.</p> <p>Persons who commit intentional acts are disqualified from participating in the program for varying lengths of time.</p>	<p>No change</p>
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Regulatory flexibility analysis

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.

There are no feasible alternative regulatory methods. The process to determine eligibility for food stamps is constrained by federal income and resource limits. The provisions of the regulation offer the least stringent reporting requirements on program recipient and applicant households. The provisions also offer a more uniform effect on program recipient and applicant households in that

Three methods exist in federal regulations to anticipate monthly income for Food Stamp Program purposes when household members receive income on a weekly or biweekly basis. State agencies may elect to: 1) use conversion factors of 2.15 and 4.3 to multiply biweekly and weekly amounts respectively; 2) use a conversion standard that is used for other public assistance programs in the state; or, 3) use the exact amount expected in the month. While the methods are available, two are not practical. There is no reasonable way to anticipate exact amounts to be received in the future and there is no other income conversion standard used by public assistance programs in Virginia. The Board prefers to use the conversion factors of 2.15 and 4.3 to calculate monthly income amounts when households expect to receive income for the full month from a specific source.

In calculating telephone costs for basic telephone service, state agencies may choose between having a standard amount or to use the actual costs for basic service for a single telephone line. There are multiple service providers for Virginia and what constitutes as basic service may vary from provider to provider or may be dependent on where households reside within Virginia. Having a single rate for the entire state is less error prone and saves eligibility worker time from having to assess telephone bills for each household or contacting the service provider for each household to determine the cost of providing basic telephone service for one telephone and one line.

Regarding administrative hearings, the process itself is an alternative to having local social services departments pursue all cases through courts to determine if individuals have committed intentional

violations of the Food Stamp Program. Representatives of local departments of social services may elect to channel some cases through the court system and decide to go through the administrative route for other cases.

Family impact

Please assess the 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.

The regulation does not affect the nurturing relationship between parents and their children. The regulation also does not alter the rights of parents to direct the education or supervision of children. The regulation neither encourages nor discourages economic self-sufficiency or self pride nor does it alter responsibility for oneself or family or affect marital commitment.

The regulation may alter disposable family income by potentially changing the amount of food stamp benefits a household receives or by determining that a household is not eligible for benefits. The amount of benefits a household receives helps to supplement the amount of money available for food purchases.

The regulation requires an acceptance of responsibility for one's actions to receive only the food stamp benefits to which the household is entitled rather than to attempt or to receive benefits or additional benefits by intentionally providing misleading or incorrect information on which eligibility is based.