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Periodic Review Report of Findings

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22VAC40-601
Regulation title	Supplemental Nutrition Assistance Program
Date this document prepared	April 17, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

SNAP Supplemental Nutrition Assistance Program
ADH Administrative Disqualification Hearing
IPV Intentional Program Violation
TANF Temporary Assistance for Needy Families

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

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. Title 7 of the Code of Federal Regulations (CFR) at § 271.4 delegates responsibilities to the state agency for the administration of the program.

Section 63.2-524 of the Code of Virginia authorizes the State Board of Social Services to establish regulations to govern administrative hearings. 7 CFR § 273.9(d)(6)(iii)(A) allows states to develop standardized amounts for utility costs for the Food Stamp Program. 7 CFR § 273.9(d)(6)(iii)(D) allows states to mandate the use of a standard amount for utility costs or for basic telephone service.

7 CFR §273.10(c)(2)(i) requires states to select an income conversion method to calculate income for the Food Stamp Program. A provision of the Food, Conservation, and Energy Act of 2008 allows states an option to expand the transitional benefits component to include state-funded programs. 7 CFR § 273.2(h) allows states an option of denying food stamp applications after 30 days or extending the pending status.

Alternatives

Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

There are alternative processes for each provision of the regulation. Several of the provisions were initially implemented in the 1990s, so, the prospect of altering SNAP eligibility guidelines for the sole purpose of selecting an alternative would likely prove error prone for the program and would require modifications to the eligibility determination computer system.

Income conversion – States may choose to calculate income 1) using a conversion chart as used by a public assistance program such as TANF; 2) use the exact amount of income received monthly; or 3) use conversion factors of 4.3 for averaged weekly income amounts, 2.15 for averaged biweekly income amounts, or 2 for income amounts received semi-monthly. The TANF Program in Virginia does not use a conversion chart. Using exact amounts would be easy to calculate retrospectively, but this method would be difficult to administer for determining future income amounts. Using the conversion factors remains the least burdensome alternative.

Telephone standard – Households applying for or receiving SNAP benefits may have the basic costs for a telephone evaluated in determining eligibility for or benefit level of SNAP benefits. The actual costs or a standard amount for telephone expenses may be used. Using a standard amount allows uniformity instead of assessing basic costs for telephone service across different communication providers.

Administrative Disqualification Hearings – This section of the regulation provides the frame for establishing if SNAP applicants or recipients have committed an IPV through an administrative hearing. The IPV determination may also be established by a court.

Application processing – States may choose to deny SNAP applications on the 30th day after the filing date if requested information is still needed at the end of 30 days. States must reopen closed or denied applications if applicants provide the requested information within the next 30 days. Alternatively, states may extend the pending process on the 30th day instead of closing or denying the applications. While the Virginia Department of Social Services initiated this provision of the regulation to deny applications on the 30th day, this provision has not been implemented and the Department continues to use the alternative method. This provision should be repealed.

Transitional benefits – States may offer a transitional period up to six months of SNAP benefits to adjust to the closure of a TANF case. States may also offer transitional benefits for the closure of state-funded programs.

Public Comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No comments were received.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation meets the criteria set out in Executive Order 14, as amended. The regulation is necessary for the protection of public health, safety, and welfare of the citizens of the Commonwealth who are eligible for food assistance through the receipt of SNAP benefits. Although there are multiple provisions of the regulation, the regulation consolidates options for the program. The regulation is brief, clearly written, and easily understandable.

Decision

Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The agency recommends that the regulation be amended to repeal the provision for processing SNAP applications within 30 days. There have been no changes to the federal laws or regulations on which the provisions are based.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, 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. Also, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

The regulation is necessary to govern SNAP in Virginia. SNAP offers Virginia citizens an opportunity to purchase nutritious foods which adds to the welfare of Virginians. No public complaints or comments have been received about the provisions of the regulation. The regulation is concise and understandable. The regulation does not overlap or duplicate other federal or state regulations. There are no changes in

technology or other factors that impact this regulation. The regulation has no impact on small businesses nor it does not include limitations on or requirements for small businesses.