




COMMONWEALTH of VIRGINIA
Office of the Attorney General

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TO: KARIN CLARK
Virginia Department of Social Services

FROM: MICHELLE A. L'HOMMEDIEU 
Senior Assistant Attorney General

DATE: June 5, 2026

SUBJECT: Exempt Final Regulations – Application Period for Low Income Home Energy Assistance Program (LIHEAP), 22 VAC 40-680-40, -60, and -67 (6943/11067)

I am in receipt of the attached regulations to amend the application periods for the Low Income Home Energy Assistance Program (“LIHEAP”). You have asked the Office of the Attorney General to review and determine if the State Board of Social Services (“State Board”) has the statutory authority to promulgate these regulations and if they comport with applicable federal and state law.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2 within the State Board’s authority and responsibility, which includes overseeing administration of the LIHEAP. The proposed amendments to the regulations reflect the directive from the General Assembly to amend the application periods for this program. 2025 *Acts of the Assembly*, Ch. 725 (the “2025 Appropriations Act”), Item 330.C.

Based on my review, it is my view that the State Board has the authority to promulgate these exempt final regulations, subject to compliance with the provisions of the 2025 Appropriations Act, Item 330.C, Article 2 of the Administrative Process Act (“APA”), and Executive Order 19 (2022), and has not exceeded that authority. To date, the Board has not yet acted on this regulation; and the Agency Background Document available on Town Hall reflects the anticipated future date of Board action.

K. Clark
June 5, 2026

Based on the foregoing, it is my view that this initial adoption of amendments to these regulations is exempt from the procedures of Article 2 of the APA pursuant to the 2025 Appropriations Act, Item 330.C. If you have any questions or need additional information about this regulation, please contact me at 786-6005.

cc: Kim F. Piner, Section Chief/Senior Assistant Attorney General

Attachment

Project 8532 - Final

Department of Social Services

Application for Low Income Home Energy Assistance Program

Chapter 680

Virginia Energy Assistance Program - Low Income Home Energy Assistance Program (LIHEAP)

22VAC40-680-40. Application period.

The application period for fuel assistance shall ~~begin not earlier than September 1 and shall end not later than March 31 each year~~ be September 15 - April 15 each year provided adequate funding is available and funds are not depleted earlier. ~~The Board of Social services shall set specific dates within that period for acceptance of fuel assistance applications.~~

22VAC40-680-60. Application period.

The application period for crisis assistance shall ~~begin not earlier than September 1 and shall end not later than March 31~~ be October 1 - September 30 each year provided adequate funding is available and funds are not depleted earlier. ~~The Board of Social Services shall set specific dates within that period for the acceptance of crisis assistance applications.~~

22VAC40-680-67. Application period.

Cooling assistance will be offered when sufficient federal funding is available. The application period shall ~~begin on June 15 and end no later than August 15~~ be May 1 - August 31 each year provided adequate funding is available and funds are not depleted earlier ~~unless funds are depleted earlier.~~ Applications shall be accepted by all local departments.