

Division of Family Services Regulatory Waivers During State of Emergency



Under the authority of Executive Order 51, the Commissioner of the Department of Social Services has waived certain regulations impacting the Division of Family Services. The Virginia Department of Social Services' (VDSS) Division of Family Services (DFS) is now permitting the temporary waiving of the non-safety standards listed below, due to the COVID-19 crisis. These requirements are suspended during the State of Emergency. Once the State of Emergency is lifted, these requirements are reinstated. The specific non-safety oriented regulations that have been waived are outlined below, grouped by relevant category: Permanency Services, Foster and Adoptive Home Approval Standards, and Additional Daily Supervision Rate Structure. Once the State of Emergency is lifted, these requirements are reinstated.

22VAC40-201 Permanency Services

- **Medical and Dental Exams** (22VAC40-201-50 and 22VAC40-201-90)
The timeframes for medical and dental exams at entry and for ongoing well-child visits have been waived. Instead, agencies are required to consult with the child's doctor and/or dentist's office and ensure that the visit is completed in accordance with the provider's recommendations. Workers should also ensure that the child's immediate needs are being met. Workers should document the recommendation of the medical/dental provider in the child's case record with a purpose type of Medical or Dental.
- **School Enrollment** (22VAC40-201-50)
The timeframe for immediate school enrollment has been waived. Once schools re-open, all time requirements will be reinstated. When a child in foster care moves from one school jurisdiction to another, workers must still provide notification to the schools using the "COVID-19 Temporary Substitute for Notice of Student Receiving Foster Care Services" because this requirement is outlined in Virginia Code §63.2-900. Best Interest Determination Meetings cannot be held during school closures and the student should remain enrolled in their previous school so they have access to any virtual learning opportunities that are being offered. Once schools reopen, BID meetings should be scheduled to determine school placement. Additional information, as well as the form, have been shared with the foster care/school liaisons through email.
- **Monthly Worker Visits** (22VAC40-201-90)
The requirement for face-to-face contact has been amended to allow videoconferencing to meet this requirement. The current regulation prohibits the use of videoconferencing for this purpose, and requires that such visits must be held face-to-face. While it is imperative that caseworkers continue to ensure the well-being of children in care, that imperative must be balanced against the health of workers, children in care, and all of the people with whom they come into contact. The monthly caseworker visit requirement remains in place, but the regulation has been modified to permit such visits to be conducted by videoconferencing during this time, consistent with guidance that has been provided by the Children's Bureau.

- **AREVA Registration (22VAC40-201-150)**
The requirement of the child-placing agency to register a child with the Adoption Resource Exchange of Virginia (AREVA) is suspended during the state of emergency. If workers are able, they may still register the child with AREVA, though the required documents that are required to be sent to the Home Office may not be accessible. Once the state of emergency is lifted, agencies will have 90 days to register the child and/or submit documents to the Home Office in order to meet the requirement to make reasonable efforts to place the child without adoption assistance. Home office will follow up with LDSS regarding waived registrations 90 days after the end of the State of Emergency.
- **Training Requirements (22VAC40-211-200)**
Initial and in-service training requirements for workers are suspended during the state of emergency. Training timelines will be reinstated once the State of Emergency is lifted. The Training Unit offers a wide variety of training online and is also offering some new worker training online to support new staff.

22VAC40-211 Foster and Adoptive Home Approval Standards

- **Tuberculosis and Physical Exam (22VAC40-211-30)**
The requirement for regular foster home (non-relative placements) applicants to have tuberculosis assessment, screening, or tests in compliance with Virginia Department of Health requirements is waived. Also waived is the requirement to have the results of a physical examination administered within the 13-month period prior, in order to comment on each applicant's or caretaker's mental or physical condition in relation to taking care of a child. Once the state of emergency has been lifted, agencies will be required to obtain all verification, as mandated in guidance, within 90 days or the home will no longer be approved.
- **Mutual Family Assessment (22VAC40-211-40)**
As part of the normal foster home approval process, LDSS are required to conduct a Mutual Family Assessment (MFA). During the State of Emergency, a foster home may be approved prior to completion of a MFA. Once the state of emergency has been lifted, agencies will be required to complete the MFA, as mandated in guidance, within 90 days or the home will no longer be approved.
- **Standards of Care for Continued Approval (22VAC40-211-80, 22VAC40-211-100A, 22VAC40-211-100B)**
The re-approval process, including background checks, in-home interviews with providers, TB assessments, and reviewing confidentiality and corporal punishment requirements, is suspended during the State of Emergency. Based on the waiving of regulatory requirements, title IV-E funds can continue to be used for children placed in these homes. Once the state of emergency has been lifted, agencies will be required to obtain all verification, as mandated in guidance, for continued approval within 90 days or the home will no longer be approved.

The required quarterly home visits to the provider as part of the monitoring and re-approval process can be conducted via telephone and video conferencing during the State of Emergency.

22VAC40-221 Additional Daily Supervision Rate Structure

- **Foster Parent Request to Re-administer VEMAT (22VAC40-221-20)**
The requirement to complete the VEMAT within 14 days of the foster parent's request has been extended to 30 days. This only applies to the request to re-administer a VEMAT, not to the request to receive a VEMAT COVID-19 addendum. Agencies should make every effort to support foster families who are significantly impacted by the COVID-19 pandemic.
- **Quarterly and Annual Assessment Timeframe (22VAC40-221-20)**
All quarterly and annual administrative reassessment requirements are waived during this state of emergency. After the state of emergency is lifted, all quarterly and annual reviews waived during the emergency must be completed within 30 days. If a VEMAT expires during this time, it will remain valid until 30 days after the state of emergency is lifted, regardless of the funding type. Agencies may choose to complete VEMAT reassessments during this time and VEMAT meetings can be completed via telephone or video conferencing.
- **Issuing a Final Score on the VEMAT (22VAC40-221-20)**
The requirement to issue a final score on the VEMAT has been extended from five business days to 10 business days. The extension of this requirement will allow for flexibility in accessing the VEMAT online tool as well as ensuring that the VEMAT rater is available to complete it.
- **Monthly Visits with Foster Parent (22VAC40-221-30)**
The requirement for the agency to have face-to-face contact every month with the foster parents when they are receiving a VEMAT payment has been waived. During the State of Emergency, telephone and video conferencing should be utilized instead. Agencies should be ensuring that foster parents are being supported during this time and that any service needs are being addressed.
- **Emergency Placement (22VAC40-221-50)**
The time frame for administering the VEMAT after an emergency placement has been extended from 60 days to 120 days. The agency may continue to complete the VEMAT within 60 days but is not required to do so during the state of emergency. Once the state of emergency has been lifted, agencies have 30 days to complete any VEMAT that becomes overdue under the current standards.
- **Request for Review (22VAC40-221-60)**
The deadline for the foster parent to request a review of the results of the rate assessment tool is extended from five business days to 30 business days. This will allow foster parents sufficient time to request a review of the assessment if they are not in agreement.

For more information on Virginia's response to COVID-19 and relevant updates and guidance, review the [Virginia Department of Social Services COVID-19 Updates and Resources](#) webpage.