COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

December 15, 2004

To: The Honorable Mark R. Warner

and

The Honorable Vincent F. Callahan, Jr., Chair
House Appropriation Committee

and

The Honorable Phillip A. Hamilton, Chair
Health, Welfare and Institutions Committee

and

The Honorable John H. Chichester, Chair
Senate Finance Committee

and

The Honorable Emmett W. Hanger, Jr., Chair
Rehabilitation and Social Services Committee

The attached report is submitted pursuant to Item 63.2-620 of the *Code of Virginia.* Item 63.2-620 directs the Department of Social Services to report on strategies for Virginia to obtain the maximum amount of federal funds available for child care services to recipients of Temporary Assistance for Needy Families and other low-income families.

Since implementation of welfare reform, child care expenditures have increased significantly, from $49,661,876 in state fiscal year (SFY) 1995 to over $122 million in SFY 2004. A description of Virginia's child care program and strategies for maximizing federal funds for child care are identified in the attached report.

Respectfully submitted,

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Commissioner

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Report on Obtaining the Maximum Available Federal Funding for Child Care Services

Department of Social Services
December 15, 2004

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Executive Summary

Section 63.2-620 of the *Code of Virginia* mandates the Department of Social Services (Department) to report annually on strategies to obtain the maximum amount of federal funding available for child care services for families who receive Temporary Assistance for Needy Families (TANF) or whose income is at or below 185 percent of the federal poverty level. The legislative report must be submitted to the chairmen of the House Committees on Appropriations and Health, Welfare and Institutions, and the Senate Committees on Finance and Rehabilitation and Social Services by December 15th of each year.

Since the implementation of welfare reform, child care expenditures have increased significantly, from $49,661,876 in state fiscal year (SFY) 1995 to over $122 million in SFY 2004. As TANF recipients entered the workforce, child care became a necessary component in enabling families to work and to move toward the goal of self-sufficiency. In SFY 2004, the cost of providing child care assistance to Virginia's TANF and low income families totaled $139,915,088.[1] This amount includes $122,027,448 in subsidy payments and $17,887,640 in support staff to maintain caseloads. Approximately fifty percent of the funding for the subsidy program is allocated to Fee Child Care to serve low income families.

Fee Child Care funds are a combination of federal dollars, state general fund dollars and local match monies. Some localities have been hindered from fully utilizing the Fee Child Care funds allotted to them for reasons such as the local government's inability to allocate the required ten percent match or the need for additional staff to handle the caseloads. In order to fully utilize dollars that are allocated for Fee Child Care, the Department allows localities that have more than the ten percent required match to access the monies that would otherwise go unspent.

The spending outlook for SFY 2005 is expected to increase over SFY 2004 spending, particularly in the area of TANF and Virginia Initiative for Employment not Welfare Program. Strategies employed by the Department in SFY 2004 to maximize nonfederal funding sources used as match included: reporting the Department of Education's Pre-Kindergarten expenditures as Maintenance of Effort and match for the Child Care and Development Fund; claiming local-only child care expenditures that have not been previously submitted to the State for reimbursement; modifying the allocation of funds to local departments of social services for the Fee Child Care program, and increasing the family eligibility level for Fairfax County. The use of donated funds and spending from other state agencies are also being explored as additional nonfederal sources.

[1] Expenditure data provided by the Virginia Department of Social Services' Locality Automated System for Expenditure Reimbursement (LASER)

Report on Obtaining the Maximum Available Federal Funding for Child Care Services

Study Mandate

Section 63.2-620 of the *Code of Virginia* requires the Department of Social Services (Department) to:

> *"…identify strategies for Virginia to obtain the maximum amount of federal funds available for child day care services for TANF recipients and families whose incomes are at or below 185 percent of the federal poverty level. The Department shall provide an annual report on these strategies to the chairmen of the House Committees on Appropriations and Health, Welfare and Institutions and Senate Committees on Finance and Rehabilitation and Social Services by December 15."*

See Appendix 1 for a copy of § 63.2-620.

Federal Funding for Child Care Services

The Department receives child care funds from two federal funding sources, the Child Care and Development Fund (CCDF) and the Temporary Assistance for Needy Families (TANF) block grant. Funding from CCDF is awarded in three categories: Mandatory, Matching and Discretionary. As a supplement, a percentage of the TANF block grant is transferred to CCDF annually to help support TANF families requiring child care.

<u>Mandatory Funds</u>

Mandatory funds are 100 percent federal funds authorized by section 418(a)(1) of the Social Security Act. Virginia receives an annual award of $21,328,766. Mandatory funds are used to match General Fund dollars that Virginia must spend in order to meet the required Maintenance of Effort (MOE) by the fourth quarter of each federal fiscal year (FFY).

<u>Matching Funds</u>

Matching funds are authorized pursuant to section 418(a)(2) of the Social Security Act. Funds are allocated based on the current Federal Medical Assistance Percentage (FMAP)[2] rate and are available to states that obligate their Mandatory funds within the FFY in which they are received. State, local or donated funds can be used to satisfy the match requirement. Matching funds must be obligated by September 30th of the year in which funds are received and liquidated by the last day of the following fiscal year.

At least 70 percent of the Mandatory and Matching funds must be spent on families receiving TANF, transitioning from TANF, or low income families at risk of becoming TANF recipients.

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[2] In FFY 2002, the FMAP rate was 51.45 percent. For FFY 2004 it was 50.53 percent.

Discretionary Funds

Discretionary funds are 100 percent federal funds, formerly known as the Child Care and Development Block Grant (CCDBG), authorized in section 658B of the Child Care and Development Block Grant Act. Funds awarded in this category are used to enhance the overall quality and availability of child care. States must spend no less than four percent on activities that meet the definition of quality as indicated in the CCDF regulations.[3] As part of the allocation, the federal government has earmarked a specific amount of funds to be used in the following areas: Infants and Toddlers; School Age Children; Resource and Referral; and Quality Expansion. Discretionary funds must be obligated by September 30th of the year following the year in which the funds are received and liquidated within one year after the obligation period ends.

States may spend no more than five percent of their cumulative Mandatory, Matching (federal and state shares) and Discretionary annual awards on administrative activities.

TANF Transfer

A state may transfer up to 30 percent of its TANF block grant for a federal fiscal year to CCDF and the Social Services Block Grant (SSBG) programs. However, a state may transfer no more than 4.25[4] percent of the TANF block grant amount for a fiscal year to SSBG. In addition, a state may set aside a portion of the allowable 30 percent transfer for the Transportation Equity Act for the 21st Century (TEA-21) grant program. A maximum of 2.5 percent of the block grant funds may be used for the TEA – 21 grant program.

Once a state transfers TANF funds to another program, it must use the funds in accordance with the rules of the receiving program. Virginia transfers the maximum allowable amount each year to SSBG. Virginia transfers a percentage of the TANF block grant to CCDF annually after deducting transfers to SSBG and TEA – 21 grant program. The funds transferred to CCDF are reported as part of the Discretionary funds (100 percent federal) and are spent in accordance with CCDF federal regulations.

Available Amounts

Since FFY 1999, the amount of Mandatory funds awarded to Virginia has remained level at $21,328,766, while allocations for the Matching and Discretionary awards have increased each year. Table 1 outlines the amounts of Virginia's available CCDF funding for FFY 1999 through FFY 2004.

[3] The 4 percent quality requirement is based on the aggregated total of the Mandatory, Matching (both federal and state shares) and the Discretionary awards including earmarks.

[4] Amendments have been passed each year to allow a 10% transfer to SSBG.

Table 1 VIRGINIA'S FEDERAL CCDF FUNDING FFY1999 – FFY 2004			
Federal Fiscal Year	**Mandatory Award**	**Matching Award**	**Discretionary Award**
1999	$21,328,766	$22,316,933	$19,413,679
2000	$21,328,766	$26,811,173	$22,717,260
2001	$21,328,766	$31,734,985	$32,843,777
2002	$21,328,766	$35,556,003	$35,056,434
2003	$21,328,766	$35,556,003	$34,462,927
2004	$21,328,766	$36,137,995	$34,928,467

Table 2 outlines the amount of Virginia's TANF block grant funds transferred to Virginia's CCDF between state fiscal year (SFY) 1999 and SFY 2004.

Table 2 AMOUNT OF TANF FUNDS TRANSFERRED TO CCDF* SFY 1999 – SFY 2004	
SFY	**Transferred Amount**
1999	$17,343,003
2000	$18,418,470
2001	$47,015,449
2002	$45,093,846
2003	$25,412,458
2004	$25,404,958

*TANF transferred amounts are shown by state fiscal year appropriation amount.

Eligible Recipients of Child Care Subsidies

Virginia classifies child care subsidies into three categories: TANF, Transitional and Fee Child Care.

TANF Child Care

TANF Child Care is a mandated service available to TANF families who need child care while the adult is working or in an approved education or training activity. No co-payment is required.

Transitional Child Care

Transitional Child Care is a mandated service available for up to 12 months after a recipient stops receiving TANF if child care is needed to maintain employment. Eligibility determination is the same as for Fee Child Care clients. A 10 percent co-payment is required. Once the 12 months of Transitional Child Care have expired, the family may receive Fee Child

Care, provided funding is available. In some localities, because of the lack of funding, post-TANF families must go on a waiting list for child care services.

Fee Child Care

Fee Child Care is a non-mandated service offered to low income families who are at risk of becoming eligible for TANF. Services can be offered as long as funding is available. The family is required to pay a 10 percent co-payment.

Impacts of Not Maximizing Federal Funding

Waiting Lists

As of November 15, 2004, Virginia had 3,895 families waiting for child care services. In SFY 2004, the Department implemented policy that requires local departments of social services to uniformly pre-screen families who may potentially be eligible for child care. Only those families who pass the pre-screening are added to the waiting lists. Without more funding, localities will not be able to reduce their waiting lists and prevent low income families from becoming potential TANF recipients. In addition, families reaching their twelve month limit for Transitional Child Care may experience a break in services and be placed on a waiting list until child care becomes available.

TANF Reauthorization

Although reauthorization of the TANF law was due to occur in October 2002, Congress has not yet passed legislation. There is a continuing resolution in effect until March 31, 2005. When reauthorization does occur, more funding will be needed for additional hours of mandated TANF child care and to provide care for younger TANF children. Even without reauthorization, child care expenditures for TANF families continue to increase, as the TANF caseload increases. TANF child care expenditures from the first quarter of SFY 2004 compared to the first quarter of SFY 2003 have increased 19%. Without additional state investment, funding will have to be diverted away from Fee Child Care, particularly when the expected increase in work requirements for TANF takes effect. Further reducing the amount of funding available for Fee Child Care may increase the risk of those families becoming TANF families.

Maximizing the Use of Federal and State Child Care Funding in Virginia

In the 2002 report to the General Assembly, "Obtaining the Maximum Available Federal Funding for Child Care Services," the Department identified other sources of funding that could be counted as MOE and State match to maximize child care revenue.

Reporting of Local Child Care Expenditures

In 2002, language was included in the Appropriations Act requiring local departments of social services to report all local expenditures.

> *"The Department of Social Services shall require localities to report all expenditures on designated social services, regardless of reimbursement from state and federal sources. The DSS is authorized to include eligible costs in its*

claim for Temporary Assistance for Needy Families Maintenance of Effort requirements."[5]

By claiming local expenditures as the match, Virginia can utilize more of the CCDF Matching award. In collaboration with local departments, the Department claimed $9.7 million in FFY 2003 and $10.7 million in FFY 2004 of previously unreported local-only child care expenditures. This allowed the State to draw down an additional $4.9 million in FFY 2003 and $5.3 million in FFY 2004 of the federal Matching award.

Utilization of Pre-Kindergarten (Pre-K) Expenditures

Pursuant to §98.53(h)(3) of the Child Care and Development Fund federal regulations:

> *"In any fiscal year, a State may use public Pre-K funds for up to 20 percent of the funds serving as maintenance –of –effort…In any fiscal year a State may use other public Pre-K funds for up to 20 percent of the expenditures serving as the State's matching funds…"*

The Department can use Pre-K expenditures to help satisfy both the State's Maintenance of Effort (MOE) requirement and to represent the nonfederal share of the CCDF Matching award. Presently, the Department receives a report three times a year from the Department of Education (DOE) which identifies DOE's State-only public Pre-K expenditures that are eligible and that have never been claimed as the nonfederal share for the purpose of obtaining other federal funding. In FFY 2002, the State amended the CCDF State Plan to include claiming up to 20 percent in Pre-K expenditures as the nonfederal share for the CCDF Matching award. Up to 20 percent of the qualifying expenditures can be used for MOE as long as Virginia does not reduce its spending for full day/full year child care services. For FFY 2003, the State reported $6,979,500 in Pre-K expenditures towards the CCDF Matching award and $4,265,752[6] in Pre-K expenditures as MOE for CCDF. The CCDF award for FFY 2004 is still open, so expenditures for Matching and MOE are not final.

There has been much discussion among states of requesting federal approval to increase the amount of Pre-K expenditures that can count as Matching award funds. As a result, the Federal Register dated November 9, 2004 contains proposed rules to revise CCDF regulations for state match provisions. These proposed revisions would increase the percentage of Pre-K expenditures that may be claimed to 30%. These proposed changes are currently in a 60-day public comment period.

The Use of Donated Funds

Donated funds can be used as match as long as they are from a private source and are not earmarked to be used by a specific person, organization, facility or institution. Federal regulations do not require that the funds be in the possession of the Lead Agency to qualify. However, the current regulations do require the state to designate a single entity to receive donated funds that may be used as match. The proposed rules to revise CCDF regulations for state match provisions contain language to allow multiple entities to be designated to receive

[5] 2002 Appropriations Act, Item 352, D

[6] 20 percent of the required MOE of $21,328,766 for CCDF

donations that may be certified for matching purposes, which could expand the pool of private donors interested in participating in providing match funds. In addition, federal regulations require the state to separately report the amount of donated funds used as match. The Department is developing a method by which localities who receive donated funds for child care services can report them to the state as match.

New Allocation Formula for Fee Child Care in State Fiscal Year 2004

Due to reasons unique to the different localities, some local departments have been unable to spend their whole Fee Child Care allocations in recent years. The cumulative impact of under-spending by local departments in Fee Child Care was $10 million in SFY 2002 and $4.5 million in SFY 2003.

In SFY 2002, the Department conducted a study of localities that continually under-spent their allocations for Fee Child Care from SFY 1999 to SFY 2001. The purposes of the study were to determine why some localities under-spend and if there are solutions that the State can offer to address under-spending. Findings from the study suggest there is no single factor that is responsible for localities' under-spending of Fee Child Care allocations. Instead, the study indicates that each locality is different, and no single action can fix the overall problem. The reasons Fee Child Care allocations remain unspent range from a lack of local matching funds, to a lack of staffing to work child care cases, to the fact that Fee Child Care is not a mandated program, and therefore, not a priority service. Some localities, however, consistently spend all of their allocations for Fee Child Care and request more funding when available. These localities have demonstrated their ability to match funds with local dollars, and some localities expend additional local dollars to provide services to Fee Child Care families.

The local allocation formula methodology has traditionally utilized Census data on families living in poverty as a proxy measure of the potential need for child care within a given locality. Since the Census data is gathered once every ten years, updating the allocation formula was difficult. The traditional formula methodology also did not take into account localities' ability to spend allocations that require a local match of funds. In March 2003, the Department presented to the Virginia League of Social Services Executives (League) an alternative allocation formula for Fee Child Care that is more aligned with historical spending patterns and performance. The alternative formula was unanimously approved by the League representatives.

For SFY 2004, localities were given 1/12th of their Fee Child Care allocation. Once SFY 2003 expenditures were finalized in July, localities received the difference between the 1/12th and what the locality actually spent in SFY 2003. Localities that spent all of their SFY 2003 allocation received the balance of their SFY 2004 allocation in July, while localities that did not spend their total SFY 2003 allocation had the balance held in reserve for SFY 2004. Any locality having funds held in reserve could request the balance by submitting a written justification of need and certifying through the county/city financial officer that local funding had been set aside as match funds. Any funds that remained in reserve after the deadline were available for reallocation to any locality requesting additional funding. In addition to initially holding funds in reserve, the Department actively reviewed and monitored local department expenditures on a monthly basis. At mid-year, localities that appeared to be under-spending their allocations were contacted about the low expenditures. If projections indicated that localities would end the year with a surplus, funds were returned to the state and then redistributed to localities that demonstrated an ability to spend the additional funds. This method of managing the funds from one locality to another seemed to work well for both the state and localities. In March 2004, representatives from the League of Social Services Executives voted to continue this practice for SFY 2005. The new allocation methodology allows localities that can spend the funds to serve more families and reduces the amount of potential unused federal funds remaining at the end of the state and federal fiscal years.

Spending by Other State Agencies

In SFY 2004, the Department began researching other state agencies to identify spending that would qualify under the CCDF regulations as nonfederal funds match. Federal regulations require individual family determination of eligibility. However, other state agencies may not capture all the necessary elements required by CCDF to qualify as match expenditures. There are no provisions for a waiver of federal regulations on the eligibility criteria that are set by the state. The Department is currently working with the federal Department of Health and Human Services' Administration for Children and Families to approve a methodology by which other state agency expenditures may qualify as match, and what level of documentation will be required.

Summary

Virginia has substantially increased its financial investment in the child care subsidy program over the past several years. Expenditures for SFY 2004 exceeded $135 million in the subsidy program, up from just $10.7 million in SFY 1990. The number of families receiving subsidized child care rose from 25,259 in SFY 1998 to 33,214 in SFY 2004, with approximately 58,235 children being served last year.

Congress has extended the Personal Responsibility and Work Opportunities Reconciliation Act (PRWORA) into federal fiscal year 2005. For now, the TANF and CCDF programs remain intact. When TANF reauthorization does occur, it is anticipated that additional hours of mandated TANF child care will be needed as well as care for younger TANF children. In addition, spending for child care for the current TANF caseload continues to increase. Funding for the low income Fee Child Care program may have to be shifted to serve the mandated TANF population.

In SFY 2004, the Department of Social Services utilized local only expenditures that had not been previously submitted to the Department for reimbursement and reported the maximum amount allowed as Match through the Department of Education's Pre-K expenditures. In addition, a new Fee Child Care allocation formula allowed funds to be moved from one locality to another to optimize expenditures.

Virginia's ability to maximize its federal child care funding to accommodate the need is a growing challenge. As the Commonwealth and local governments continue to experience competing demands for budget expenditures, new strategies must be reviewed and implemented to qualify as nonfederal match funds for the Child Care and Development Fund grant. The answers seem to lie in a blend of options, such as increasing the state's general fund investment, seeking federal flexibility in documentation of expenditures and increasing the caps on allowed Pre-K expenditures for match and MOE.

Appendix A

Code of Virginia

§63.2-620 Child day care services for TANF and low-income families.

The Department shall identify strategies for Virginia to obtain the maximum amount of federal funds available for child day care services for TANF recipients and families whose incomes are at or below 185 percent of the federal poverty level. The Department shall provide an annual report on these strategies to the chairmen of the House Committees on Appropriations and Health, Welfare and Institutions and Senate Committees on Finance and Rehabilitation and Social Services by December 15.