

Authorized Signature

## APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title:

Safety and Treatment Program

Type of Rule:

☒ Legislative ☐ Interpretive ☐ Procedural

Agency:

Department of Health and Human Resources, Behavioral Health

Address:

350 Capitol Street, Room 350  
Charleston, WV 25301

Phone Number:

(304) 356-4799

Email: [craig.a.richards@wv.gov](mailto:craig.a.richards@wv.gov)**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Provision of the DUI Safety and Treatment program will generate revenue due to the DHHR in the form of enrollment fees. The revenue received will be utilized in the administration and oversight of a statewide DUI Safety and Treatment education and treatment program. In addition to general program administration, the fee will also cover curriculum development and compliance monitoring. A portion of the fees collected will be made available for the payment of services rendered to individuals determined to be indigent.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	750,000.00	750,000.00	750,000.00
Personal Services	184,000.00	184,000.00	184,000.00
Current Expenses	566,000.00	566,000.00	566,000.00
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	750,000.00	781,250.00	812,500.00

Rule Title:

64-CSE-98 DUI Safety &amp; Treatment

Rule Title: \_\_\_\_\_

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

The total annual cost to the Bureau for Behavioral Health and Health Facilities of \$750,000 is based upon the following assumptions: Personal Services costs totaling \$184,000 are broken down as follows: HHR Specialist Senior at \$37,405, HHR Specialist Senior at \$38,778, Office Assistant III at \$24,924, Office Assistant III at \$25,000 and combined annual increment amount for the four employees of \$1,560. Benefits totaling \$56,335 are estimated as follows: admin fees and health insurance -\$19,379, FICA and PERS - \$27,933, Workers Compensation - \$1,525, and OPEB - \$7,499.

Current expenses are estimated at \$566,000 and are categorized as follows: Development, printing and distribution of revised curricula \$150,000, in-state travel for staff to train service providers of \$75,000, general office supplies of \$7,500, equipment costs will include replacement of computers and peripherals of \$10,000, \$50,000 for compliance monitoring, and the remaining \$273,500 will be utilized in the reimbursement to providers rendering services to participants determined to be indigent.

Estimated Revenues of \$750,000 in the first year and additional amounts in subsequent years are based upon an estimated program enrollment in the current year of 6,000 individuals at \$125 per enrollee and a trended estimated increase of 250 additional enrollees per subsequent year.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: 28 July 2011

Signature of Agency Head or Authorized Representative

M. J. Lewis (SDC)

## QUESTIONNAIRE

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 29, 2011

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Health and Human Resources  
350 Capitol Street, Suite 350  
Charleston, WV 25301  
(304) 558-0627

LEGISLATIVE RULE TITLE: 64-98, DUI Safety and Treatment

1. Authorizing statute(s) citation 17C-5A-3

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 30, 2011

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) *or* Public Comment Period ended:

July 29, 2011

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached       x      

No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

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- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Victoria Jones, Commissioner

WVDHHR

350 Capitol Street, Suite 350

Charleston, WV 25301

(304) 356-4771

(304) 558-2230

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- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

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b. Date of hearing or comment period:

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

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d. Attach findings and determinations and reasons:

Attached 

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# TSG CONSULTING

Public Relations • Governmental Affairs • Health Care

July 28, 2011

Ms. Vicki Jones, Commissioner  
Bureau for Behavioral Health and Health Facilities  
350 Capitol Street  
Charleston, WV 25301-3702

**RE: CSR Title 64, Series 98, DHHR Safety and Treatment Program**

Dear Commissioner Jones,

On behalf of the West Virginia Behavioral Healthcare Providers Association, I would like to submit the following comments on CSR Title 64, Series 98, Safety and Treatment Program. The WVBHPA greatly appreciates the efforts of the BBHHP to revise and update this rule to ensure that program quality and fiscal soundness are maintained. In addition to the specific rule amendments that we are suggesting below, there may be a need to update terms and definitions within the rule in order to bring further clarity to our recommended changes.

**§64-98-5. Program Levels of Referral.**

The assessment tools and referral guidelines should be updated to reflect current practice and standards. The required level 1 course hours should be a minimum of eighteen hours instead of nineteen again to reflect current practice and standards. We would suggest the following amendments:

*5.2.a. Objective information such as the Participant's blood alcohol content; various assessment tests as defined in the Program Standards such as the Michigan Alcoholism Screening Test (MAST), the Drug Abuse Screening Test (DAST), the Numerical Drinking Profile (NDP) and McAndrews Scale of the Minnesota Multiphasic Personality Inventory (MMPI); and prior driving under the influence, public intoxication, and other substance abuse related arrests;*

*5.2.d. Based upon the initial assessment, providers shall refer participants to the level of service applicable based upon American Society of Addiction Medicine (ASAM) criteria. Participants found to not meet ASAM criteria for any level of service must still be referred for Level I Prevention and Education Component.*

*5.3. Level 1. Prevention and Education Component – The Center Provider shall refer a Participant who through the assessment phase is evaluated as not having a significant substance abuse problem to Level 1. This level is informational and educational in nature and is intended to create an awareness of the misuse of alcohol and other drugs, particularly as the use relates to the operation of a motor vehicle. The Level 1 component consists of a minimum of ~~nineteen~~ eighteen hours and shall include the following:*

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**5.3.c. One individual counseling session after the classroom instruction.**

The indigent program should only cover the cost of the level 1 prevention and education component. Individuals needing additional services due to a lack of involvement or because they have not significantly benefited should be responsible for the costs. We would suggest the following amendments:

*5.3.c.1. This session shall be used to evaluate the Participant's need for further services. If the counselor determines in the counseling session that the Participant has not benefited significantly or has demonstrated a lack of involvement, additional prevention and education activities may be required to fulfill the completion criteria for Level 1 with costs assumed by the participant.*

**5.4 and 5.5 Level II and Level III**

The assessment tools and referral guidelines should be updated to reflect current practice and standards. We would suggest the following amendments:

*5.4. Level II, Intervention and Treatment Component – The ~~Center~~ Provider shall refer a Participant who it considers as having an abuse problem according to the American Society of Addiction Medicine's (ASAM) criteria as set forth in the Program Standards ~~potential, probable, early stage or middle stage substance abuse problem~~ to Level II of the Program. This level consists of individual or group outpatient counseling on a frequency correspondent to the determined need. All Level II ~~The Participants~~ shall complete a Level 1, Prevention and Education program. ~~A Participant shall attend meetings of Alcoholics Anonymous, Narcotics Anonymous or other similar entity, verification of attendance shall also be required.~~*

*5.5. Level III, Intensive Care Component – The ~~Center~~ Provider shall refer a Participant who is assessed as having an abuse problem according to the American Society of Addiction Medicine's (ASAM) criteria as set forth in the Program Standards ~~late stage substance abuse problem~~ to Level III. A Participant at this level shall participate in an intensive treatment program which will have total abstinence as its goal. The intensive treatment component consists of intensive outpatient or residential treatment ~~or partial hospitalization~~ designed specifically for substance abuse treatment. ~~A Participant shall attend meetings of Alcoholics Anonymous, Narcotics Anonymous or other similar entity verification of attendance shall also be required.~~ Completion of a Level 1, Prevention and Education Component and Level II, Intervention Treatment Component for aftercare purposes is also required.*

**§64-98-6. Staff Qualifications.**

Section 6.4 should be updated to reflect instruction standards for other safety driving instruction as provided for within the code. We suggest the following amendment:

*6.4. Defensive Driving or other safety driving instruction – a person providing services for the course of defensive driving or other safety driving instruction shall be a qualified instructor as defined in the Program Standards.*

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Section 6.5 should be updated to ensure the program coordinator will continue to meet the standards required by the current program standards. We do not believe the rule should reduce the programs current standards. We recommend the following amendment:

*6.5. Program Coordinator – Each ~~Center~~ Provider shall designate a DUI Program Coordinator whose function is to supervise the performance of the terms of the contract between the ~~Center Provider~~ and the Department. The Program Coordinator shall also work with the Department for the purposes of program Development and procedural refinement. The Program Coordinator shall meet or exceed the minimum criteria set forth in the Program Standards., ~~at a minimum, be a Clinical Certified Addictions Counselor.~~*

#### **§64-98-7. Program Participant Evaluation.**

Changes in status should be based upon application to the prescribed ASAM criteria. We recommend the following amendment:

*7.2. Change in Status – ~~The A Centers~~ Provider may change a Participant's Program level status following the initial assessment based upon application to the prescribed ASAM criteria. When a ~~Center Provider~~ changes a Participant's status, it shall notify the Department by submitting a revised Referral Evaluation Report.*

#### **§64-98-8. Fiscal Procedures.**

It is the current practice of program providers to offer additional services on a sliding scale or charity care basis depending on the income level of the participant. Specifically requiring a sliding fee scale is overly prescriptive and may conflict with existing charity care policies. We would recommend the following amendment:

*8.2. Additional Services – The cost for all counseling and treatment services provided in addition to the Level 1 component as described in Subsection 5.3 of this legislative rule is the responsibility of the Participant. Each ~~Center~~ Provider shall charge for additional services in accordance with its prevailing fee schedule for comparable services. ~~If a Participant cannot afford the full fee for additional services a sliding fee scale shall be used.~~*

The indigent program eligibility should be limited to residents of the state of West Virginia. We recommend the following amendments:

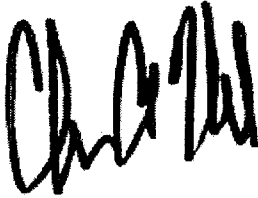
*8.3. Indigent Participant – A West Virginia resident person who is determined to be indigent by an approved ~~the Center~~ Provider operating within West Virginia may be eligible for a full waiver of the enrollment fees for the provision of the Level 1 Prevention and Education component ~~or a reduction in the fees for the participation in the Program.~~*

*8.3.a. A West Virginia resident person (or Participant) with family income equal to or below one hundred per cent of the federal poverty standard, adjusted for family size, shall be determined to be indigent, qualifying that person for sponsorship for the full amount of fees related to enrollment in the Level 1, Prevention and Education Component as set forth in Subsection 5.3 of this rule.*

Additionally, the process for the collection and payment of funds from West Virginia residents that participate in a Safety and Treatment Program in another state and/or drivers that receive a DUI in West Virginia and participate in another state's approved program should also be clarified by the state in the rule along with any portion of the fee that will be used for program administration.

If you have any questions or concerns following your review of our rule comments, please feel free to contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Hall', with a stylized, cursive script.

Chris Hall

118 Capitol Street  
Charleston, WV 25301  
(304) 345-1161

**64CSR98**

**TITLE 64  
LEGISLATIVE RULES  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**SERIES 98  
SAFETY AND TREATMENT program**

**Statement of Circumstances**

This rule is being revised for the following reasons:

- To correct technical errors in 64 CSR 98, Safety and Treatment Program, authorized by the West Virginia Legislature and cited in SB 295, passed on March 18, 2011.

Brief Summary for Proposed Revision to Rule Amended after Public Comment Period

**Significant changes include:**

- Correcting the fee paid to providers for the educational component.
- Inclusion of specific circumstances related to out-of-state providers.

### Facts and Circumstances Regarding Proposed Changes to the Safety and Treatment Rule

This document shall memorialize the changes made during the previous session in which 64 CSR 98 was introduced to address several issues related to the DHHR's provision of the DUI Safety and Treatment Program's "Education Component" including an increase of the Education Component fee from Two Hundred Fifty Dollars (\$250.00) to Five Hundred Dollars (\$500.00), the rule was edited several times from the introduced version and ultimately was passed with a reduction in the fee of the Safety and Treatment Program Education Component from Five-Hundred Dollars (\$500.00) to Four-Hundred Dollars (\$400.00). This reduction was agreed to by all affected parties. However, the division of the Four-Hundred Dollars (\$400.00) was erroneously edited, taking the One-Hundred Dollars (\$100.00) reduction from the Provider portion instead of from the Department portion. This proposed change corrects the division of the costs, as well as explicitly stating where the money the Department receives shall be deposited and how it will be used. In addition to the fee language, omission of out of state provider procedural application has caused significant confusion and language is being added to communicate applicability.

The chart and notes appearing below have been prepared in an effort to succinctly represent the changes and technical problem that the DHHR is facing.

	Original Fee <sup>1</sup>	Fee Agreed to by Providers and DHHR <sup>2</sup>	Fee per 64CSR98 <sup>3</sup>	"Should Be" <sup>4</sup>
Total Fee	\$250.00	\$500.00	\$400.00	\$400.00
Provider Portion	\$220.00	\$275.00	\$175.00	\$275.00
DHHR Portion	\$30.00	\$225.00	\$225.00	\$125.00

1. The original fee was inadequate for the continued provision of the educational component for both providers and DHHR's state-wide oversight of the approved curriculum.

2. The DHHR asked for provider representation in the drafting of a rule to support the program and fee. The \$500 in the introduced version was broken down as \$275 to be retained by the provider (a \$55 per client increase), and \$225 being submitted to the DHHR which was intended to be divided as follows: \$75 per enrollee to the indigent fund (new fee), \$50 for the operation of the program (a \$20 per client increase), \$50 for the TBI fund (new fee), \$50 for Substance Abuse Services (new fee).

3. A committee substitute removed the \$50 per client set aside for Traumatic Brain Injury and the \$50 per client set aside for Substance Abuse and grouped the total \$125 submitted to the DHHR into the indigent fund thus leaving no money in the operations contribution. The end result of the adjustment yielded a decrease in the provider portion and no operational funding for the DHHR. As a result of the reduction in provider portion of the fee, providers are unwilling to enter into renewed memorandums of understanding (MOU's).

4. The revised rate has a breakdown of \$275 being retained by the provider keeping the original intent of an increase of \$55 in this amount, and clarifying the use of the \$125 submitted to the DHHR allowing the DHHR to continue to have a defined operations revenue source thus retaining the original intent of the rule.

TITLE 64  
LEGISLATIVE RULE  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 98  
SAFETY AND TREATMENT  
PROGRAM

2011 JUL 29 PM 3:58

WEST VIRGINIA  
SECRETARY OF STATE

§64-98-1. General

- 1.1. Scope. – This legislative rule establishes a comprehensive safety and treatment program for persons found in initial and subsequent violation of W.Va. Code §§ 17C-5-1 *et seq.* and 17C-5A-1 *et seq.*
- 1.2. Authority. – W. Va. Code §§ 17A-2-9 and 17C-5A-3.
- 1.3. Filing Date. –
- 1.4. Effective Date. –

§64-98-2. General.

- 2.1. Application – This legislative rule applies to all persons involved in the West Virginia Safety and Treatment Program Administered by the Department of Health and Human Resources, Division of Alcoholism and Drug Abuse pursuant to §17C-5A-3.
- 2.2. Enforcement – Enforcement of this legislative rule is vested with the Secretary of the Department of Health and Human Resources.

§64-98-3. Definitions.

The following definitions apply in the interpretation and enforcement of this legislative rule.

~~3.1. Centers – the Community Behavioral Health Centers and Guilds regulated by the Department of Health and Human Resources and contracted by the Department of Health and Human Resources as the provider agency for services relating to the Safety and Treatment Program.~~

3.1. Code – The Code of West Virginia of 1931, as amended.

3.2. Secretary – The executive officer of the Department of Health and Human Resources as appointed by the Governor.

3.3. Department – The Department of Health and Human Resources.

3.4. DUI – Any act which would constitute a violation of §17C-5-2.

3.5. License – Any permit issued by the Commissioner of the Department of Motor Vehicles for the purpose of operating a motor vehicle. ~~in this state.~~

3.6. Participant – ~~A person enrolled in the Safety and Treatment Program.~~ An individual enrolled in the West Virginia Safety and Treatment program who has been charged with a DUI in the state of West Virginia or a West Virginia resident who has been charged with a DUI in another state.

3.7. Program – The West Virginia Safety and Treatment Program established pursuant to §17C-5A-3.

3.8. Provider – An entity, including the Comprehensive Community Behavioral Health Centers (as defined in §27-2a-1) regulated by the Department of Health and Human Resources that provides Safety and Treatment Programs pursuant to a grant ~~an agreement or a Memorandum of Understanding with the Department~~ or an approved program operated in another state.

~~3.9. Sliding Fee Scale – The scale of fees charged by the providers for services rendered over and above the basic Level I Program Safety and Treatment Program enrollment fee.~~

#### §64-98-4. Program Responsibilities.

4.1. The Department of Motor Vehicles is responsible for licensure to operate a motor vehicle and any changes to licensure.

4.2. The Department of Health and Human Resources is responsible for establishing a comprehensive safety and treatment program for persons found in violation of W. Va. Code §§17C-5-1 *et seq.* and 17C-5A-1 *et seq.* The Department shall fulfill this responsibility by developing a Program and contracting with the Community Behavioral Health Centers and other providers to conduct the Program. The Department is also responsible for ensuring that services rendered through the Program Providers, both in and out of state, are delivered by competent and qualified professionals. The Department is also responsible for the development of program standards for individuals involved in the service delivery, for approval of program curriculum (for providers operating both in and out of West Virginia) and for monitoring of compliance by providers with the standards.

4.3. West Virginia licensed Community Behavioral Health Providers ~~Centers and other providers~~ shall offer and operate the Program under contract with the Department of Health and Human Resources.

#### §64-98-5. Program Levels of Referral.

5.1. Initial Notification – When a person is notified ~~of by~~ by the Commissioner of Motor Vehicles' by Order of License Revocation, the person is advised of the procedures for participation in the Program and the conditions to be met before license reinstatement.

5.2. Initial Assessment – The first phase of the Program consists of an enrollment session and a period of Assessment, conducted by ~~the Centers~~ a Provider, for determining which Program levels are appropriate for each Participant to complete. The assessment shall use:

5.2.a. Objective information such as the Participant's blood alcohol content; various assessment tests as defined in the Program Standards such as the Michigan Alcoholism Screening Test (MAST), the Drug Abuse Screening Test (DAST), the Numerical Drinking Profile (NDP) and McAndrews Scale of the Minnesota Multiphasic Personality Inventory (MMPI); and prior driving under the influence, public intoxication, and other substance abuse related arrests;

5.2.b. Subjective information based on the Participant's problems involving family, employment, education or training, financial, medical, recreational, emotional, legal and substance abuse problems; and

5.2.c. Information on the participant's interpersonal relationships, and his or her own observation of his or her present status, the evaluator's observations of the Participant, and any other significant information that is available.

5.2.d. Based upon the initial assessment, providers shall refer participants to the level of service applicable based upon American Society of Addiction Medicine (ASAM)

criteria. Participants found to not meet ASAM criteria for any level of service must still be referred for Level I Prevention and Education Component.

5.3. Level I. Prevention and Education Component – The Center Provider shall refer a Participant who through the assessment phase is evaluated as not having a significant substance abuse problem to Level I. This level is informational and educational in nature and is intended to create an awareness of the misuse of alcohol and other drugs, particularly as the use relates to the operation of a motor vehicle. The Level I component consists of a minimum of ~~nineteen~~ eighteen hours and shall include the following:

- 5.3.a. Defensive Driving Instruction or other safety driving instruction;
- 5.3.b. Substance Abuse Education, of which at least one hour shall be an orientation to Alcoholics Anonymous, Narcotics Anonymous or other similar entity provided by a member of one of those organizations; and
- 5.3.c. One individual counseling session after the classroom instruction.
  - 5.3.c.1. This session shall be used to evaluate the Participant's need for further services. If the counselor determines in the counseling session that the Participant has not benefited significantly or has demonstrated a lack of involvement, additional prevention and education activities may be required to fulfill the completion criteria for Level I with costs assumed by the participant.

5.4. Level II, Intervention and Treatment Component – The Center Provider shall refer a Participant who it considers as having an abuse problem according to the American Society of Addiction Medicine's (ASAM) criteria as set forth in the Program Standards ~~potential, probable, early-stage or middle-stage substance abuse problem~~ to Level II of the Program. This level consists of individual or group outpatient counseling on a frequency correspondent to the determined need. All Level II The Participants shall complete a Level I, Prevention and Education program. ~~A Participant shall attend meetings of Alcoholics Anonymous, Narcotics Anonymous or other similar entity, verification of attendance shall also be required.~~

5.5. Level III, Intensive Care Component – The Center Provider shall refer a Participant who is assessed as having an abuse problem according to the American Society of Addiction Medicine's (ASAM) criteria as set forth in the Program Standards ~~late-stage substance abuse problem~~ to Level III. A Participant at this level shall participate in an intensive treatment program which will have total abstinence as its goal. The intensive treatment component consists of intensive outpatient or residential treatment ~~or partial hospitalization~~ designed specifically for substance abuse treatment. ~~A Participant shall attend meetings of Alcoholics Anonymous, Narcotics Anonymous or other similar entity, verification of attendance shall also be required.~~ Completion of a Level I, Prevention and Education Component and Level II, Intervention Treatment Component for aftercare purposes is also required.

#### §64-98-6. Staff Qualifications.

6.1. Center Provider Responsibilities – Each Center Provider is responsible for ensuring that the services provided through the Program are delivered by competent and qualified professionals who meet requirements as established in the Program Standards published by the Department. Each Center Provider shall provide the Department with the names, training and job functions performed of all persons providing services for the Program.

6.2. Assessment, Evaluation and Treatment – A person providing services for the Assessment, Evaluation, and Treatment aspects of the Program shall have at least one year work experience in the field of substance abuse treatment, or have attained the necessary skills through training, education, experience and supervision.

6.3. Prevention and Education – A person providing services for the Prevention and Education component of the program shall have at least one year of work experience in the field of substance abuse prevention and education and/or treatment or have attained the necessary skills through training, education, experience and supervision.

6.4. Defensive Driving or other safety driving instruction – a person providing services for the course of defensive driving or other safety driving instruction shall be a qualified instructor as defined in the Program Standards.

6.5. Program Coordinator – Each Center Provider shall designate a DUI Program Coordinator whose function is to supervise the performance of the terms of the contract between the Center Provider and the Department. The Program Coordinator shall also work with the Department for the purposes of program Development and procedural refinement. The Program Coordinator shall meet or exceed the minimum criteria set forth in the Program Standards., at a minimum, be a Clinical Certified Addictions Counselor.

#### §64-98-7. Program Participant Evaluation.

7.1. Referral Evaluation Report – Based on the information gathered during the initial assessment as described in subsection 5.2 of this legislative rule, the Center Provider shall make a referral evaluation report on each Participant on the form prescribed by the Department. The Center Provider shall forward each report to the Department.

7.2. Change in Status – The A Centers Provider may change a Participant's Program level status following the initial assessment based upon application to the prescribed ASAM criteria. When a Center Provider changes a Participant's status, it shall notify the Department by submitting a revised Referral Evaluation Report.

7.3. Status Evaluation Report – the Center Provider shall submit a Status Evaluation Report on each Participant to the Department, on the prescribed form, upon completion of the Program.

7.4. Overall Responsibility – By virtue of its legislative mandate relative to the Safety and Treatment Program, overall responsibility for the level and quality of treatment provided by the Center Provider for any Participant rests with the Secretary.

7.5. Appeal of Referral – Each Center Provider shall establish procedures for resolving Participant questions concerning referral level and status evaluation.

#### §64-98-8. Fiscal Procedures.

8.1. Program Enrollment and Level 1 Component Fee – The initial fee for enrollment in the West Virginia Program shall be Four Hundred Dollars (\$400.00). This fee covers the provision of the Level 1 Prevention and Education treatment component as described in Subsection 5.3 of this legislative rule. The Participant shall pay the fee upon enrollment at the Center Provider, unless he or she is found to be indigent.

8.2. Additional Services – The cost for all counseling and treatment services provided in addition to the Level 1 component as described in Subsection 5.3 of this legislative rule is the responsibility of the Participant. Each Center Provider shall charge for additional services in accordance with its prevailing fee schedule for comparable services. If a Participant cannot afford the full fee for additional services a sliding fee scale shall be used.

8.3. Indigent Participant – A West Virginia resident person who is determined to be indigent by an approved the Center Provider operating within West Virginia may be eligible for a full waiver

of the enrollment fees for the provision of the Level I Prevention and Education component or a reduction in the fees for the participation in the Program.

8.3.a. A West Virginia resident person (or Participant) with family income equal to or below one hundred per cent of the federal poverty standard, adjusted for family size, shall be determined to be indigent, qualifying that person for sponsorship for the full amount of fees related to enrollment in the Level I, Prevention and Education Component as set forth in Subsection 5.3 of this rule.

~~8.3.b. A person (or Participant) with family income between one hundred and two hundred per cent of the federal poverty standard, adjusted for family size, shall be determined to be indigent, qualifying for discounts from fees related to enrollment fees and participation in the Program in accordance with the established sliding fee schedule and policies regarding individual financial circumstances.~~

8.4. The Department of Health and Human Resources Safety and Treatment Fund –Upon enrollment in the Program, the Participant shall pay to the provider the sum of Four Hundred Dollars (\$400.00) except for those Participants which are determined under 8.3 to be indigent. The provider shall remit to the Department the sum of ~~Two Hundred Twenty Five Dollars (\$225.00)~~ One Hundred Twenty Five Dollars (\$125.00) and the provider shall retain ~~One Hundred Seventy Five Dollars (\$175.00)~~ Two Hundred Seventy Five Dollars (\$275.00). The Department shall deposit ~~One Hundred Twenty Five Dollars (\$125.00)~~ Seventy Five Dollars (\$75.00) of this sum in the Department of Health and Human Resources Safety and Treatment fund, to be used to reimburse providers for their portion of the enrollment fee for persons qualifying for indigent status. The remaining Fifty Dollars (\$50.00) shall be utilized by the Department for the administration of the program. The Department is also responsible for collecting the One Hundred Twenty Five \$125.00 per participant from West Virginia residents that participate in a Safety and Treatment Program in another state and/or drivers that receive a DUI in West Virginia and participate in another state's approved program.

#### §64-98-9. Reinstatement of License.

9.1. Completion of Program – In order to successfully complete the program, the participant shall complete the prescribed level or levels of treatment, receive a favorable Status Evaluation Report and pay all applicable costs for program participation.

9.2. Payment of Reinstatement Fees – The Program Participant must satisfy all financial obligations to the Department and the Division of Motor Vehicles before the reinstatement of his or her license will be considered whether the participant resides in West Virginia or in another state.

9.3. Final Decision – Subject to the provisions of §17C-5A-3(b)(2), the final decision on license reinstatement is vested with the Commissioner of Motor Vehicles.