

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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NOTICE OF AN EMERGENCY RULE

AGENCY: Department of Human Services TITLE NUMBER: 78

CITE AUTHORITY: WVC §48A-5-3(s), 42 USC §666(b)(10), 45 CFR §303.100(a)(9)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: Termination of Income Withholding

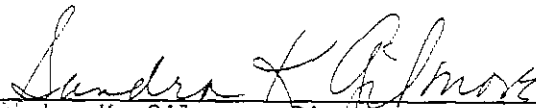
IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The existing legislative rule may have been filed erroneously as a "receipt of public assistance" exemption to legislative rule-making and, accordingly, may be susceptible to legal challenge as to its authorization. This emergency rule is filed to alleviate this potential problem so that the Child Advocate Office can continue to serve the interests of support obligors by terminating their income withholding orders so that they are not treated inequitably


Sandra K. Gilmore, Director
Child Advocate Office

Use Additional Sheets If Necessary.

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF HUMAN SERVICES
CHAPTER 48A-5-3(s)
SERIES 11

Title: Termination of Income Withholding

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DEPARTMENT OF HUMAN SERVICES
CHAPTER 48A-5-3(s)
SERIES 11

Title: Termination of Income Withholding

Section 1. General

- 1.1 Scope--This legislative rule establishes procedures whereby the Department of Human Services Child Advocate Office will terminate income withholding for support obligors.
- 1.2 Authority and Related Code Citation--West Virginia Code §48A-5-3(s), 42 U.S.C. §666(b)(10), 45 C.F.R. §303.100(a)(9).
- 1.3 Filing Date--
- 1.4 Effective Date--
- 1.5 Repeal of Former Rule--This legislative rule repeals the following West Virginia Legislative Rule: "Department of Human Services, Series 11, Termination of Income Withholding," filed July 1, 1986.

Section 2. Termination of Income Withholding

- 2.1 The Child Advocate Office shall not terminate withholding until:
 1. The child has reached the age of 18 or is otherwise emancipated, and all arrearages have been paid.
 2. The obligor has legal custody of the child, and all arrearages have been paid.
 3. The child has been adopted, and all arrearages have been paid.
 - 2.2 The Child Advocate Office shall adequately document the reason for the termination of the withholding.
 - 2.3 Upon receipt of proper documentation, the Child Advocate Office shall mail a notice of withholding termination to the employer and a copy to the obligor.
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