

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Department of Human Services TITLE NUMBER: 78

CITE AUTHORITY 48A-2-11(b)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 13

TITLE OF RULE BEING AMENDED: Interstate Income Withholding

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Sandra K. Gilmore
SKG

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WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF HUMAN SERVICES
CHAPTER 48A-2-11(b)
SERIES 13

Title: Interstate Income Withholding

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WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF HUMAN SERVICES
CHAPTER 48A-2-11(b)
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Title: Interstate Income Withholding

Section 1. General

- 1.1 Scope--This legislative rule establishes procedures to extend the Department of Human Services Child Advocate Office system of income withholding to income derived within this state where applicable support orders were issued in other states to assure that child support owed by obligors in this state or any other state will be collected regardless of the residence of the child or its custodial parent.
- 1.2 Authority and Related Code Citation--West Virginia Code §48A-2-11(b), 42 U.S.C. §666(b)(9), 45 C.F.R §303.1009g).
- 1.3 Filing Date--
- 1.4 Effective Date--

Section 2. Interstate Income Withholding

- 2.1 Interstate wage withholding is available to enforce a an existing order for support support order on all IV-D cases without proceeding through the URESA process.
- 2.2 The Child Advocate Office will be involved in interstate withholding in two situations:
 - 1. An obligee resides in the State of West Virginia and the obligor in another state.

2. The obligor resides in West Virginia and the obligee resides in another state.

2.3 Procedures for Interstate Income Withholding When the Obligee Resides in West Virginia.

If the obligee is not currently receiving IV-D services, an application for IV-D NPA services and the \$25.00 application fee are required prior to processing the withholding. During the interview with the caretaker/obligee, the Paralegal must determine the following:

1. Obligor's name, address and Social Security Number;
2. Name and address of obligor's source of income;
3. Where the support order originated;
4. The paralegal will determine from the Interstate Withholding Directory the information that the other state requires to process the withholding;
5. The Paralegal will obtain and assemble the required documentation (This may involve obtaining certified copies of documents from other states if the support order was not issued in West Virginia), and complete the Interstate Transmittal form, OCSE-107-U4, to send to the other state;
6. The Paralegal will send the original package to the state in which the obligor resides, a copy to the Central Child Advocate Office and place a copy in the Child Advocate Office record.

2.4 Procedures to Implement an Income Withholding Income Request From Another State

West Virginia requires the following documentation from the other state IV-D agency to initiate withholding for an obligor residing in this state:

1. A certified copy of the support order with all modifications;
 2. A certified copy of an income withholding order/notice, if any, still in effect;
 3. A copy of the portion of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;
 4. A sworn statement of the obligee or certified statement of a court or government entity of the arrearages and the assignment of support rights, if any;
 5. A statement of:
 - a. the name, address, and Social Security Number of the obligor, if known;
 - b. the name and address of the obligor's employer or of any other source of income of the obligor earned in this state against which income withholding is sought;
 - c. the name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.
- 2.5 The income withholding request will be sent by the other state to the Central Child Advocate Office and then forwarded to the appropriate Regional Child Advocate Office.
- 2.6 The Central Child Advocate Office shall examine the documentation from the requesting state to determine whether or not it conforms to West Virginia requirements.

- 2.7 The Central Child Advocate Office will remedy any defect it can without the assistance of the requesting state. If the Child Advocate Office is unable to make such correction, the requesting state shall immediately be notified of the necessary additions or corrections. In neither case shall the documentation be returned. The Central Child Advocate Office will forward the documentation to the Regional Office if it appears that there is enough required information to proceed with the withholding.
- 2.8 The Regional Child Advocate Office will:
 1. if only a support order or support order with a conditional order of withholding (i.e., the trigger must be met in the future) is received from another state, determine if the trigger amount for withholding has been reached UNDER THE LAW OF THE STATE WHICH ENTERED THE ORDER, NOT THE LAW OF WEST VIRGINIA; (this is why it is necessary to have a copy of the other state's withholding law); if the individual is behind in an amount to trigger the withholding under the other state's law, the para-legal sends the notice to the obligor and then proceeds exactly as in Section 7021, Intrastate Withholding Procedures; or
 2. if an active income withholding order is received (i.e., the trigger was met in the other state and withholding begun, the para-legal will immediately send the notice to the obligor and then proceed exactly as in Section 7021, Intrastate Withholding Procedures.

