

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #5

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: DHHR - Division of Human Services TITLE NUMBER: 78

CITE AUTHORITY: W. Va. Code §24-2C-4 and 47 USC 254

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code §24-2C-4(d)

AMENDMENT TO AN EXISTING RULE: YES X NO _____

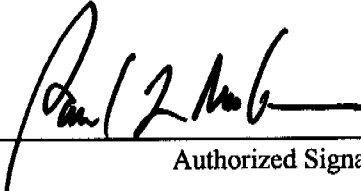
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 15

TITLE OF RULE BEING AMENDED: Tel-Assistance Program

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS July 2, 2003


Authorized Signature

**TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HUMAN SERVICES**

**SERIES 15
TEL-ASSISTANCE PROGRAM**

§78-15-1. General.

1.1. Scope. -- This Legislative rule establishes the procedures under which the West Virginia Department of Health and Human Resources shall operate the Tel-Assistance Program pursuant to the provisions of W. Va. Code §24-2C-4 and 47 USC 254. Related information is found in Chapter 19.8 of the Department's West Virginia Income Maintenance Manual that is available on the Department's web page at <http://www.wvdhhr.org/ofs/Policy/ManualChapters.htm>. The West Virginia Code is available in public libraries and on the Legislature's web page: <http://www.legis.state.wv.us/>. The United States Code is available in public libraries and on Congress' web page: <http://www.thomas.loc.gov>.

1.2. Authority. -- W. Va. Code §24-2C-4.

1.3. Filing Date. -- July 2, 2003.

1.4. Effective Date. -- July 2, 2003.

1.5. Replacement of Former Rule. - This legislative rule replaces the Division of Human Services rule, "Tel-Assistance Program", 78CSR15, effective July 1, 2003.

§78-15-2. Purpose.

2.1. The Tel-Assistance Program allows qualified low-income persons to request and receive basic local telephone service at a rate lower than the standard telephone service rate.¹

§78-15-3. Definitions.

3.1. Department. -- The West Virginia Department of Health and Human Resources.

¹ Tel-Assistance rates for each eligible telecommunications carrier are set forth in the tariffs filed by those companies with the Public Service Commission.

3.2. Disabled. – The inability to do any substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to last for a continuous period of not less than thirty (30) days.

3.3. Eligible Telecommunications Carrier. – A common carrier that offers telephone services that are supported by federal universal service support mechanisms, advertises the availability of such services and charges for the services using media of general distribution, and that otherwise is qualified as an eligible telecommunications carrier by the public service commission pursuant to the provisions of 47 U.S.C. Section 214.

3.4. Public Service Commission. – The Public Service Commission of West Virginia.

3.5. Qualifying Low-Income Consumer – A consumer who is a recipient of Medicaid, food stamps, supplemental security income, federal public housing assistance, low-income home energy assistance program benefits, temporary assistance to needy families benefits, or other income-related state or federal benefits.

§78-15-4. Responsibilities of the Department.

4.1. The Department is responsible for the following activities:

4.1.a. Determining eligibility of applicants for Tel-Assistance on an initial and continuing basis;

4.1.b. Communicating those determinations to the participating eligible telecommunications carriers and the Public Service Commission; and

4.1.c. Assisting applicants for Tel-Assistance in proving their eligibility for Tel-Assistance.

§78-15-5. Eligibility Requirements.

5.1. An individual is eligible for Tel-Assistance if he or she participates in any of the programs listed in the definition of “qualifying low-income consumer,” or in other income-related state or federal programs.

§78-15-6. Determination and Communication of Eligibility.

6.1. In order to allow the Department to make a determination as to eligibility, the participating eligible telecommunications carriers shall provide the Department with the names and social security numbers of applicants for Tel-Assistance.

6.2. The Department shall routinely communicate eligibility determinations to eligible telecommunications carriers that request the eligibility determinations.

6.3. The Department shall annually provide the participating eligible telecommunications carriers with the birth date, disability status, and basis for eligibility for individuals receiving Tel-Assistance. Unless the participating eligible telecommunications carriers obtain this information lawfully through other means and without an obligation to maintain its confidentiality, the participating eligible telecommunications carriers shall not use or disclose this information for any purpose other than the administration of Tel-Assistance. The administration of the program may include reporting by the participating eligible telecommunications carriers of eligibility information on an aggregate, non-individual basis to the Public Service Commission or its staff.

§78-15-7. Notification of Eligibility.

7.1. Participating eligible telecommunications carriers shall notify applicants of their Tel-Assistance eligibility and benefits.

§78-15-8. Questions of Eligibility.

8.1. Participating eligible telecommunications carriers shall answer all questions of eligibility regarding the receipt of Tel-Assistance benefits.

8.2. All other responsibilities related to the implementation of the Tel-Assistance Program shall be handled by the participating eligible telecommunications carriers and by the Public Service Commission as prescribed in W. Va. Code §24-2C-1 et seq.

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1.2. Authority. -- W. Va. Code §24-2C-4.

1.3. Filing Date. -- ~~April 4, 2003~~; July 2, 2003.

1.4. Effective Date. -- ~~July 1, 2003~~; July 2, 2003.

1.5. ~~Repeal and Replacement of Former Rule.~~ - This legislative rule ~~repeals and replaces~~ "Operating Rules and Regulations for the West Virginia Department of Human Services Tel-Assistance Program," the Division of Human Services rule, "Tel-Assistance Program", 78CSR15, effective July 28, 1986 July 1, 2003.

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