

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

Form #4 ■

Do Not Mark In This Box

FILED

2002 SEP 23 A 11:00

WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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

CITE AUTHORITY: W. Va. Code §24-2C-4

AMENDMENT TO AN EXISTING RULE: YES NO

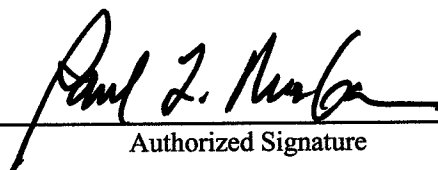
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 15

TITLE OF RULE BEING AMENDED: Tel-Assistance Program

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULES, 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.


Authorized Signature

SCANNED

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

FILED

A 11:00

SERIES 15
TEL-ASSISTANCE PROGRAM

WEST VIRGINIA
SECRETARY OF STATE

§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. 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. --

1.4. Effective Date. --

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," 78CSR15, effective July 28, 1986.

§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.

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

¹ Tel-Assistance rates for each local telephone company are set forth in the tariffs filed by those companies with the Public Service Commission.

period of not less than thirty (30) days.

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

4.1. The Department is responsible for determining eligibility of applicants for Tel-Assistance on an initial and continuing basis and communicating the determinations of eligibility to the participating telephone companies and the Public Service Commission.

§78-15-5. Eligibility Requirements.

5.1. An individual is eligible for Tel-Assistance if he or she:

5.1.a. Meets the criteria set forth in W. Va. Code §24-2C-4(a); or

5.1.b. Is a participant in any of the programs listed in the Tel-Assistance tariffs of the participating telephone companies on file with the Public Service Commission.

§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 telephone companies 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 telephone companies that request the eligibility determinations.

6.3. The Department shall annually provide the participating telephone companies with the birth date and basis for eligibility for individuals receiving Tel-Assistance. Unless the participating telephone companies obtain this information lawfully through other means and without an obligation to maintain its confidentiality, the participating telephone companies 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 telephone companies 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 telephone companies shall notify applicants of their Tel-Assistance eligibility and benefits.

§78-15-8. Questions of Eligibility.

8.1. Participating telephone companies 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 telephone companies and by the Public Service Commission as prescribed in W. Va. Code §24-2C-1 et seq.



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2002 SEP 17 A 10:36

WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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September 15, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register
TO: Martha Barnitt
Human Services, Division of
Building 3, Room 201
Capitol Complex
FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Tel-Assistance Program, 78CSR15**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.

- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.

- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.

- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

FILED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Human Services

2002 JUL -2 A 9:40

Subject: Tel-Assistance Program, 78CSR15

OFFICE WEST VIRGINIA
SECRETARY OF STATEPERTINENT DATES

Filed for public comment: May 9, 2002

Public comment period ended: June 10, 2002

Filed following public comment period: June 25, 2002

Filed LRMRC: June 25, 2002

Filed as emergency: May 9, 2002

Fiscal Impact: \$272 next fiscal year; \$72 each year thereafter

ABSTRACT

The proposed rule repeals and replaces a current legislative rule. The following is a section-by-section synopsis of the substantive amendments made by the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 relates to purpose. It provides that the Tel-Assistance Program allows qualified, low-income persons to request and receive basic level telephone service at a lower rate.

Section 3 defines terms.

Section 4 relates to the responsibilities of the Department. It states that the Department is responsible for determining applicant eligibility on an initial and continuing basis and communicating those determinations to participating phone companies and the PSC.

Section 5 relates to eligibility requirements. It provides that persons who are disabled or 60 years of age or older, and who receive Temporary Aid to Needy Families and Food Stamps, or have a monthly income no higher than Supplemental Security Income eligibility levels are eligible for Tel-Assistance.

Section 6 relates to determination and communication of eligibility. It requires participating telephone companies to provide the Department with the names and social security numbers of applicants for Tel-Assistance. The Department is required to annually provide the companies with the birth date and basis for eligibility for individuals receiving Tel-Assistance. Information received from the Department is confidential.

Section 7 relates to notification of eligibility. It requires participating telephone companies to notify applicants of eligibility and benefits.

Section 8 relates to questions of eligibility. It requires participating telephone companies to answer all questions pertaining to eligibility and also requires the companies and the PSC to handle all other responsibilities related to the implementation of the Tel-Assistance Program.

AUTHORITY

Statutory authority: W.Va. Code, §24-2C-4, which provides, in part, as follows:

... (c) The department of human services shall establish, by rules and regulations, procedures to inform persons of their eligibility for tel-assistance service, to assist applicants for tel-assistance service in proving their eligibility therefor, and to determine on a continuing basis the eligibility of persons receiving tel-assistance service and communicate such determinations to the telephone utilities. Initially, such rules and regulations shall be adopted and filed in the state register within one hundred twenty days of the

effective date of this article and shall not otherwise be subject to the requirements of chapter twenty-nine-a of this code. Such rules and regulations initially adopted shall become effective immediately upon filing in the state register and remain in effect until supplanted by legislative rules promulgated pursuant to chapter twenty-nine-a of this code. Final approved legislative rules shall be submitted by the department of human services to the legislative rule-making review committee on or before the first day of August, one thousand nine hundred eighty-seven.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.