

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF THE SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Division of Rehabilitation Services TITLE NUMBER: 198

CITE AUTHORITY §18-10L-1

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

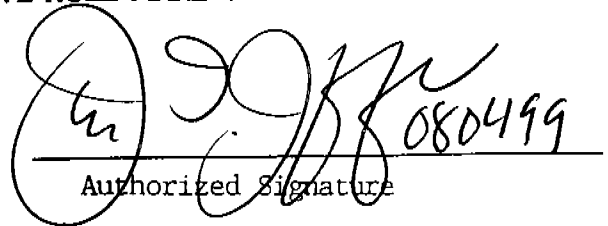
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Ron Yost Personal Assistance
Services Act Board

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

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: August 3, 1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Division of Rehabilitation Services
P. O. Box 50890, State Capitol
Charleston, WV 25305
Phone: (304) 766-4601

LEGISLATIVE RULE TITLE: Ron Yost Personal Assistance
Services Act Board

1. Authorizing statute(s) citation §18-10L-1

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 30, 1999

b. What other notice, including advertising, did you give of the hearing?
We advertised in newspapers statewide.

c. Date of Public Hearing(s) or Public Comment Period ended:
June 22, 1999

- 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)
-

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

James S. Jeffers, Director

WV Division of Rehabilitation Services
P. O. Box 50890, State Capitol

Charleston, WV 25305
Telephone: (304) 766-4600

FAX: (304) 766-4671
E-Mail: jeffers@mail.drs.state.wv.us

- 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)

Penney A. Hall, Assistant Director

Consumer and Communication Services
WV Division of Rehabilitation Services

P. O. Box 50890, State Capitol
Charleston, WV 25305

Telephone: (304) 766-4997

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.

N/A

b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

**Ron Yost Personal Assistance Services Board
Public Meeting
July 22, 1999**

The public meeting was attended by twenty individuals. (see attached list)

Mark Derry, WVSILC representative to the board, convened the meeting. At the request of those present, he read the proposed Legislative Rule for the Board.

Questions: (to be answered at a later date)

Carmen Farmer – Is the definition of severe disability in WV Code 18-10L-3(3) the same as the definition used by DRS?

Comments:

Ed Harmon – Mr. Harmon expressed concern that the individuals served by this program will be have employer responsibilities including employment taxes and this could be a burden for some individuals.

Announcements:

The board will receive written comments on the proposed rule until July 30, 1999.

The WVSILC is accepting applications for full board appointments which will be made in October 1999.

Ron Yost Personal Assistance Services
Public Meeting
July 22, 1999

<u>Name</u>	<u>Address</u>	<u>Phone</u>
James Qualls	322 W 12th Ave Huntington, WV	304-525-9206
Leo Mulvey	820 Virginia Ave. Apt B Huntingotn, WV 25701	
Reba Lockhard	329 Prince St. Beckley, WV 25801	304-255-0122
Cindy Kitchen	215 28th St. Dunbar, WV 25064	304-768-3963 Cindy,Kitchen@ciynet.net
Carmen Poston-Farmer	1021 Grosscup Ave Dunbar, WV 25064	304-766-4983
Ed Harmon	100 Washington St. E Charleston, WV 25301	304-342-0659
Kevin Maynus	329 Prince St. Beckley, WV 25801	304-255-0122
John Brumfield	821 Fourth Ave Huntington, WV 25701	304-525-3324
Anthony Byrge	103 Tolley Dr. Beckley, WV 25801	304-253-5998
Donald Carson	PO Box 38 Lester, WV 25865	304-255-0122
Ron Odham	PO Box 51 Shady Springs, WV 25918	304-763-3161
Emery Stadtler	PO Box 114 Sandstone, WV 25985	304-466-1140

Michael Meadows	710 Red Oak St. Charleston, WV 25302	
Barb King	WVDRS State Capitol	304-766-4965
Martha Stadtler	PO Box 144 Sandstone, WV 25985	304-466-1140
Linda Lilly	337 Carl Vest Road Glen Morgan, WV 25847	304-252-3715
Joseph Stadtler	PO Box 114 Sandstone, WV 25985	304-466-1140
Shirley Klein	2715 Fairlawn Ave Lot 32 Dunbar, WV 25064	
Stanley Gaston, Sr.	WVRC PO Box 1004 Institute, WV 25112	
Benjy Snyder	WVRC PO Box 1004 Institute, WV 25112	

SUMMARY

Title 198
Legislative Rules
West Virginia Division of Rehabilitation Services
Ron Yost Personal Assistance Services Act Board
Series 1

This rules establishes procedures and standards applicable to the implementation of the Ron Yost Personal Assistance Services Act.

CIRCUMSTANCES

Title 198

Legislative Rules

West Virginia Division of Rehabilitation Services

Ron Yost Personal Assistance Services Act Board

Series 1

The purpose of this rule is to guide the West Virginia Division of Rehabilitation Services and the Ron Yost Personal Assistance Services Act Board in the implementation and administration of the Ron Yost Personal Assistance Act as delineated in WV Code §18-10L-1.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Ron Yost Personal Assistance Services Act Board

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency West Virginia Division of Rehabilitation Services

Address P. O. Box 50890, State Capitol
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
	\$	\$	\$	\$	\$
ESTIMATED TOTAL COST					
PERSONAL SERVICES	- 0 -				
CURRENT EXPENSE	- 0 -				
REPAIRS & ALTERNATIONS	- 0 -				
EQUIPMENT	- 0 -				
OTHER	- 0 -				

2. Explanation of above estimates:

These rules do not include any fees which would either generate revenue or incur any costs.

3. Objectives of these rules:

To establish the procedures and standards applicable to the implementation of the Ron Yost Personal Assistance Services Act.

Rule Title: _____

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There is no economic impact on State Government.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

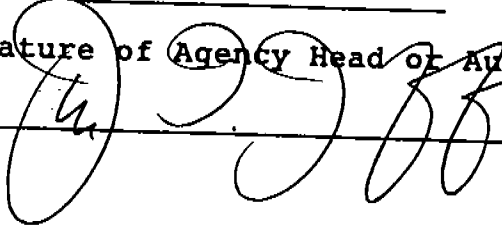
None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: 062999

Signature of Agency Head or Authorized Representative

 _____

LEGISLATIVE RULE

RON YOST PERSONAL ASSISTANCE SERVICES ACT BOARD

TITLE 198

LEGISLATIVE RULE

RON YOST PERSONAL ASSISTANCE SERVICES ACT BOARD

SERIES 1

RECEIVED
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WEST VIRGINIA LEGISLATURE

§198-1-1. General.

1.1. Scope This rule is being filed pursuant to West Virginia Code §§29A-3-1 et seq. and West Virginia Code §18-10L-1. This rule establishes procedures and standards applicable to the implementation of the Ron Yost Personal Assistance Services Act.

1.2. Authority. West Virginia Code §18-10L-1.

1.3. Filing Date.

1.4. Effective Date.

§198-1-2. Description of Program.

2.1. General Purpose. The West Virginia Legislature created and established the Ron Yost Personal Assistance Services Act to make available personal assistance services for persons with severe disabilities to enable them to live in their own homes and communities in lieu of more restrictive settings. Recipients of personal assistance services are able to make decisions regarding the provision of services including, but not limited to, hiring, training, managing, paying, and terminating an assistant's employment.

§198-1-3. Board Membership, length of terms, attendance, officers, expenses, and meetings.

3.1. Board Membership. The West Virginia Statewide Independent Living Council (SILC) shall establish a standing committee to function as the consumer directed board to direct the implementation of the provisions of this Rule.

3.1.a. The board shall be composed of seven individuals with severe disabilities one of whom shall be a representative of the SILC with a disability.

3.1.a.1. Two ex-officio, non-voting members shall be the Executive Director of the SILC and the director of the Division of Rehabilitation Services or the administrator responsible for the program. The SILC may appoint additional ex-officio, non-voting members as needed.

3.1.b. The Council shall solicit board members from across the state using a variety of methods; including newspaper ads, personal solicitations, etc.

3.1.c. The Executive Committee of the Council shall make the final determination of board membership.

3.2. Members serve for terms of three (3) years.

3.2.a. With the exception of the SILC member as described in 3.2.c. of this rule no member may serve more than two consecutive full three-year terms;

3.2.b. Initial appointments to the board shall be staggered as follows:

3.2.b.1. two members shall be appointed for a term of one year,

3.2.b.2. two members shall be appointed for a term of two years,

3.2.b.3. two members shall be appointed for a term of three years.

3.2.c. The SILC representative is limited in terms only by his or her SILC membership term and at the discretion of the SILC executive committee.

3.3. The board shall meet at least four times a year.

3.3.a. The board shall appoint committees as needed in the conduct of its business.

3.3.b. A quorum of the board is constituted by at least four members being present, at least one of whom must be an officer.

3.3.c. The board shall elect from among its membership, as officers, a chairperson, a vice-chairperson, and a secretary at the October meeting of the board.

3.3.c.1. Officers shall serve one year terms with a maximum of two consecutive terms.

3.4. Members of the Board shall receive reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as members of the board in accordance with state travel regulations. Members with disabilities may receive reimbursement for expenses including costs associated with personal assistance, interpreters and disability-related accommodations when those costs are incurred in the course of conducting the business of the Board. Any reimbursement must be authorized by the SILC chairperson and shall be paid from moneys in the Fund.

3.5. Board members who are absent from more than two regularly scheduled meetings in a calendar year shall be removed from the board by the SILC executive committee.

3.5.a. The SILC executive committee shall appoint replacements to fill any vacancies.

§198-1-4. Program.

4.1. Application for Services. Application for services will be made with the West Virginia Division of Rehabilitation Services. The Division of Rehabilitation Services rehabilitation counselor shall make a preliminary eligibility determination based upon the definition of severe disability as described under definitions in WV Code §18-10L-3(3). Once this preliminary assessment is made the counselor will schedule a functional assessment with a certified provider within 30 days.

4.1.a. The certified provider shall provide the Board a copy of the functional assessment within seven (7) calendar days of the assessment

4.2. Once the functional assessment is obtained the Consumer directed board shall review the application.

4.2.a. Applications will be reviewed within 30 days of the functional assessment unless there are no unobligated funds available.

4.2.b. If there are no unobligated funds available, applications will be reviewed at the next regularly scheduled meeting of the board.

4.3. The Board shall review applications using the following priorities:

4.3.a. Unless a person receives services under this rule he or she will be placed in an institutional setting not of their choice;

4.3.b. A person receiving services under this rule will be able to leave an institutional setting and live in his or her own community in a setting of their own choice; and

4.3.c. Other applications will be accepted on a first come, first served basis.

4.4. Once a person is determined eligible for services the Board shall contact the Division of Rehabilitation Services and the recipient of services in writing. Written notification includes:

4.4.a. The number of hours a person is eligible to receive personal assistance services based on the functional assessment and the availability of funds.

4.4.b. The approved start date for these services.

4.4.c. Any training the recipient may need in order to manage a personal assistant.

4.4.d. The rate at which the recipient is to be reimbursed.

4.5. The recipient must agree to obtain services from other entities if it is later determined he or she is eligible for personal assistance services from such other entity, including, but not limited to, the Medicaid Waiver Program.

4.5.a. Individuals will remain eligible for services under this program until such time they begin receiving services from another entity.

4.6. If there are no unobligated funds available, the Division of Rehabilitation Services shall establish a waiting list of those individuals eligible for services.

§198-1-5. Appeals.

5.1. If a person is determined not to be eligible for services under this rule, he or she may appeal the decision to the SILC executive Committee in writing, within 30 (thirty) days of receipt of written notification.

5.1.a. The executive committee will hear/review the appeal within 10 (ten) working days of receipt of the written appeal.

5.1.b. The written decision of the executive committee will be sent to the appellant within 5 (five working days of the decision.

5.1.c. The decision of the executive committee is final.

§198-1-6. Funding.

6.1. Five (5%) percent of the Funds will be designated for the Board to use for administrative costs. The Division of Rehabilitation Services may use another two (2%) percent of the Funds for administration of the program; for a total of seven (7%) percent administrative costs.

6.2. The West Virginia Division of Rehabilitation Services shall not receive any reimbursement from the Fund established under this rule in order to complete the functional assessment.

§198-1-7. Sliding Scale.

7.1. The level of financial assistance will be determined, in part, based on the applicant's adjusted annual income at the time of the review. The Board will review this information on a yearly basis.

7.1.a. The adjusted annual income will be determined by calculating the applicant's annual net earned income and subtracting any allowable deductions. Only the applicant's income shall be considered: neither the applicant's other financial assets nor the income or assets of family, if any, shall be considered. Earned income includes all money received for personal services, such as wages, salaries, tips, commissions, and fees. Funds received by the applicant from Workers' or Unemployment Compensation, pension,

SSDI, SSI, alimony, child support and other sources will be entered into calculated total income.

7.1.b. Deductions:

7.1.b.1. The total annual income will be reduced by the annual amount of all non-elective withholdings other than garnishments, and by the amount of any elective withholdings for medical or hospitalization premiums. Non-elective withholdings are those which are not at the discretion of the wage earner. Garnishments are payments of private debts and therefore are considered as net income.

7.1.b.2. The applicant's total annual earned income will be reduced by \$3,000 for the first dependent (not including applicant), \$2,000 for the second dependent, and \$1,000 for each dependent thereafter. Each dependent claimed must qualify as a dependent under the United States Internal Revenue Service code; except that a family member with gross earned income exceeding \$7,500 annually shall not be considered as being dependent upon the applicant.

7.1.b.3. The applicant's total annual earned income will be reduced by the amount of the applicant's necessary expenses related to the disability, if any. Such expenses may include annual costs for medication, medical supplies, adaptive clothing, and similar expenses. Non-expendable items such as wheelchairs, braces, van modifications, lifts, ramps, etc., shall be depreciated at a rate of 25% per year based on original purchase costs, except that such items having an original purchase cost of \$1,500 or less may be claimed in a single year at the applicants election. Only that portion of a disability-related expense not reimbursed by any third-party may be claimed.

7.2. Reimbursement Rate schedule:

Income Reimbursement Category	Adjusted Annual Income	Rate
1	\$ 0 - 21,999	1.00
2	22,000 - 22,999	.98
3	23,000 - 23,999	.96
4	24,000 - 24,999	.94
5	25,000 - 25,999	.92
6	26,000 - 26,999	.90
7	27,000 - 27,999	.88
8	28,000 - 28,999	.85
9	29,000 - 29,999	.81
10	30,000 - 30,999	.76
11	31,000 - 31,999	.70
12	32,000 - 32,999	.63
13	33,000 - 33,999	.55
14	34,000 - 34,999	.46
15	35,000 - 35,999	.36

16	36,000 - 36,999	.25
17	37,000 - 37,999	.13
18	38,000+	.00

DEPARTMENT OF EDUCATION AND THE ARTS

Office of the Secretary

State Capitol Bldg. 5, Room 205
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
Telephone: (304) 558-2440
Fax No.: (304) 558-1311

Cecil H. Underwood
Governor

David R. Ice
Cabinet Secretary

August 6, 1999

The Honorable Ken Hechler
Secretary of State
State Capitol Building
Charleston, West Virginia 25305

Dear Secretary Hechler:

I hereby grant consent as pursuant to West Virginia Code §5F-2-2 for the promulgation of the following agency approved Legislative Rule of the West Virginia Division of Rehabilitation Services Ron Yost Personal Assistance Services Act Board.

Title 198, Series 1: Ron Yost Personal Assistance Services Act Board

A copy of the rule is attached.

Sincerely,



David R. Ice
Cabinet Secretary

Attachment

cc: James S. Jeffers, Director
Division of Rehabilitation Services

Ann Meadows, Executive Director
Statewide Independent Living Council

Mark Derry, Chairperson
Ron Yost Personal Assistance Services Act Board



WEST VIRGINIA DEPARTMENT OF EDUCATION AND THE ARTS
DIVISION OF REHABILITATION SERVICES

JAMES S. JEFFERS, DIRECTOR

August 4, 1999

The Honorable David R. Ice, Cabinet Secretary
Department of Education and the Arts
Building 5, Room 205
Charleston, West Virginia 25305

Dear Secretary Ice: *David*


On behalf of the Ron Yost Personal Assistance Services Act Board, I am forwarding a notice of adoption of the following agency approved Legislative Rule:

Title 198, Series 1: Ron Yost Personal Assistance Services Act Board

This rule has been approved by the board.

Could you please review the enclosed and, if you approve, forward to the Secretary of State for filing. Thank you for your assistance.

Sincerely



James S. Jeffers
Director

Enclosure

cc: Ann Meadows, Executive Director
Statewide Independent Living Council

Mark Derry, Chairperson
Ron Yost Personal Assistance Services Act Board

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