



SEP 15 11 29 AM '99
OFFICE OF THE SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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Delegate Mark Hunt, Co-Chairman
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September 15, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Penney A. Hall
Div. of Rehabilitation Services
Capitol Complex
Box 50890

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Ron Yost Person Assistance Services Act Board, 198CSR1**

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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.



SEP 15 11 23 AM '99
OFFICE OF THE SECRETARY OF STATE

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September 15, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: James S. Jeffers
Div. of Rehabilitation Services
Capitol Complex
Box 50890

FROM: Legislative Rule-Making Review Committee

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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.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

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Ron Yost Personal Assistance Services Act Board

Subject: Ron Yost Personal Assistance Services Act Board, 198CSR1

PERTINENT DATES

Filed for public comment: June 30, 1999
Public comment period ended:
Filed following public comment period: August 6, 1999
Filed LRMRC: August 6, 1999
Filed as emergency: June 30, 1999

Fiscal Impact: None

OFFICE OF THE SECRETARY OF REVENUE
GEORGIA
AUG 17 9 16 AM '99
FILED

ABSTRACT

The proposed rule is new. The following is a section by section synopsis of 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 provides a general description of the program.

Section 3 relates to the Board charged with overseeing the program. It provides that the Board is composed of seven individuals with severe disabilities. Members serve a term of three years with the first appointments staggered. The Board is to meet four times a year with members receiving reimbursements for reasonable and necessary expenses actually incurred in the performance of their duties.

Section 4 relates to the program. It requires a person seeking personal assistant services to apply to the Division of Rehabilitative Services. It requires a counselor, based on the application, to make a preliminary eligibility determination which is followed by a functional assessment of the applicant. The Board is to make a determination within 30 days if there are unobligated funds available.

The Board is to provide priority to providing services to a person: (1) who would be placed in an institutional setting not of his or her choice if he or she did not receive services under this

program; or (2) who would be able to leave an institutional setting and live in his or her own community in a setting of his or her own choice if he or she receives funds under this program. All of the other applicants are to be handled on a first come, first serve basis.

Section 5 relates to appeals and allows a person denied services to appeal the decision, within 30 days of receiving written notification, to the Executive Committee of the Statewide Independent Living Council. The Executive Committee decision is final.

Section 6 relates to funding. It provides that 5 percent of the funds are to be designated for the Board for administrative costs with another 2 percent of the funds available going to the Division of Rehabilitative Services for administration of the program.

Section 7 relates to a sliding scale. It states that the level of financial assistance is, in part, determined by the applicant's adjusted annual income at the time of review. It sets forth a method of determining adjusted annual income and provides a reimbursement rate schedule.

AUTHORITY

Statutory authority: W.Va. Code, §18-10L-6, which provides as follows:

The division of rehabilitation services, as directed by the consumer board, shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, necessary for the effective administration of this article including a sliding scale for funding based on the recipient's, as the employer, ability to contribute to the cost of services.

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 PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.