

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

AGENCY: DIVISION OF VOCATIONAL REHABILITATION

RULE TYPE: PROCEDURAL

RULE TITLE: FOUR SETS OF RULES WILL BE OPEN FOR PUBLIC COMMENT

1. CONSUMER ADVISORY COMMITTEES FOR GENERAL REHABILITATION SERVICES-MEETINGS AND DUTIES
2. CONSUMER ADVISORY COMMITTEE FOR ATTENDANT CARE SERVICES-MEETINGS AND DUTIES
3. RULES OF PROCEDURE FOR HEARINGS INVOLVING APPLICANTS WHO HAVE BEEN FOUND NOT ELIGIBLE TO RECEIVE REHABILITATION SERVICES
- ✓ 4. RULES OF PROCEDURE FOR HEARINGS INVOLVING APPLICANTS WHO HAVE BEEN DENIED ATTENDANT CARE SERVICES

A PUBLIC HEARING ON THE ABOVE PROPOSED RULES WILL BE HELD AT 1:30PM ON OCTOBER 22, 1986 AT THE P & P BUILDING, SMALL CONFERENCE ROOM, WEST VIRGINIA REHABILITATION CENTER, INSTITUTE, WEST VIRGINIA 25112, ATTENTION DAVID F. GREENE.

COMMENTS ARE LIMITED TO: ORAL _____ WRITTEN _____ BOTH XXX

COMMENTS MAY ALSO BE MAILED TO THE ABOVE ADDRESS PRIOR TO THE HEARING DATE.

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULES.


David F. Greene

FILED
1986 SEP 17 PM 3:51
CLERK OF COURT
SECRETARY OF STATE

WEST VIRGINIA PROCEDURAL RULES
DIVISION OF VOCATIONAL REHABILITATION

Rules of Procedure for Hearings Involving
Applicants Who Have Been Denied Attendant Care Services

Chapter 18-10A (1-15)
1986

FILED

1986 SEP 17 PM 3:12

WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA PROCEDURAL RULES
DIVISION OF VOCATIONAL REHABILITATION

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Chapter 18-10A (1-15)
Series 4
(1986)

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WEST VIRGINIA PROCEDURAL RULES
DIVISION OF VOCATIONAL REHABILITATION

Rules of Procedure for Hearings Involving Applicants
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Chapter 18-10A (1-15)
Series 4
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Section 1. General

1.1. Scope - These procedural rules establish the general procedures for conducting fair hearings for applicants who appeal the Division's decision denying them attendant care services.

1.2. Authority and Related Code Citations - West Virginia Code - Chapter 18-10A, Sections 1-15. West Virginia Code 18-10-4A.

1.3. Filing Date

1.4. Effective Date

Section 2. Application - These procedural rules shall apply to every applicant who has been denied attendant care services by the Division.

Section 3. Definitions

3.1. Director - shall mean the Director of the West Virginia Division of Vocational Rehabilitation.

3.2. Division - shall mean the West Virginia Division of Vocational Rehabilitation.

3.3. Attendant Care Services - shall mean services which include, but are not limited to:

- (a) routine bodily functions such as bowel and bladder care;
- (b) dressing;
- (c) ambulation;
- (d) meal preparation and consumption;
- (e) assistance in moving in and out of bed;
- (f) bathing and grooming;
- (g) housecleaning and laundry; and

(h) any other similar activity of daily living.

Section 4. Application for Services

4.1. Anyone can apply for attendant care services provided he or she is eighteen years of age or older, is severely physically disabled, and is a citizen of the State of West Virginia.

Section 5. Right to appeal decision if denied attendant care services

5.1. The Division of Vocational Rehabilitation shall be responsible for establishing an appeals procedure for those applicants who have been denied attendant care services.

Section 6. Responsibility to inform all applicants of their right to appeal

6.1. During the initial application interview, the Division through its duly authorized representative, such as a Rehabilitation Counselor, District Supervisor, or the Division employee responsible for the Attendant Care Program, shall inform all applicants of their right to appeal a decision of the Division.

Section 7. Hearings

7.1. After applying for Attendant Care Services, the applicant will be evaluated by a certified evaluation unit.

7.2. The recommendations of the certified evaluation unit are forwarded to the Division.

7.3. If the decision is to deny an applicant for Attendant Care services, the applicant shall have the right to appeal the decision under the following Division guidelines -

(a) Local Reconciliation - This procedure is done at the local level on an informal basis. The purpose of a local reconciliation is to settle the matter locally without having to go to the expense of an administrative review and a possible fair hearing. Those present at the local reconciliation are usually the applicant, the applicant's rehabilitation counselor, and the counselor's immediate supervisor.

(b) Administrative Review - When local reconciliation fails to satisfy the applicant, he/she has the right to request and receive an administrative review. The review will consist of a detailed examination of the complaint as stated by the applicant, a review of the recommendations made by the certified evaluation unit, and any statements made by the applicant's rehabilitation counselor or the applicant in response to requests of the reviewing official.

(c) Fair Hearing - If the applicant is not satisfied with the decision made by the reviewing official at the administrative review, he/she has a right to request and receive a fair hearing. The fair hearing will be conducted

by a disinterested agency employee appointed by the Director on the basis of the employee's demonstrated ability in conducting hearings. The hearing is to be held not later than 30 days from the date received by the Hearing Examiner. The Hearing Examiner will prepare a detailed summary of the hearing and submit it to the Director. The Director will act on the summary and opinion of the Hearing Examiner within 2 weeks of its receipt.

The decision of the Director in the fair hearing is final and binding on the part of the Agency. After the decision is made, the applicant's recourses for relief from within the Agency are exhausted. Any client has the right to seek judicial review after all administrative appeals are exhausted.