

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Child Support Enforcement Division TITLE NUMBER: 97

CITE AUTHORITY W. Va. Code 48A-3-11, 48A-5-3

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

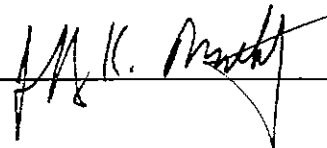
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 11 2

TITLE OF RULE BEING PROPOSED: Application of Statutory Interest

Provisions

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.



DATE: August 16, 1996

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Gretchen O. Lewis, Secretary, DHHR

LEGISLATIVE RULE TITLE: Application of Statutory Interest Provisions

1. Authorizing statute(s) citation W.Va. Code 48A-3-11, 48A-5-3, 48-2-3 and 56-6-31

2. a. Date filed in State Register with Notice of Hearing

7/25/96

b. What other notice, including advertising, did you give of the hearing?

c. Date of Hearing(s) 8/26/96

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

8/30/96

f. Name and phone number(s) of agency person(s) to contact for additional information:

R. Jeffrey Johnson
CS&D In-House Counsel
558-0908

CHILD SUPPORT ENFORCEMENT DIV.
BUILDING 6, ROOM 5-817
CAPITOL COMPLEX
CHARLESTON, WY 25305

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: _____

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

d. Attach findings and determinations and reasons:

Attached _____

TITLE 97
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

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SERIES 11
APPLICATION OF STATUTORY INTEREST PROVISIONS

OFFICE OF WEST VIRGINIA
SEAL OF STATE

§97-11-1. General.

1.1 Scope - This legislative rule establishes procedures for the Department of Health and Human Resources, Child Support Enforcement Division, not to calculate and collect interest on support arrearages in specific instances.

1.2 Authority - W. Va. Code §48-2-37, W. Va. Code §48A-5-3(n), 48A-3-11, W. Va. Code §56-6-31, 42 U.S.C. §666(b)(9), and 45 C.F.R. §303.100 (f).

1.3 Filing Date -

1.4 Effective Date -

1.5 Repeal of Former Rule
This Legislative Rule repeals the following West Virginia Legislative Rule: Department of Human Services, series II, Termination of Income Withholding filed June 6, 1989.

§97-11-2. Interest Payments on Support Arrears.

2.1. Every support order entered by a circuit court of this state shall provide that the wages of an obligor be subject to withholding.

2.2. The total of any matured, unpaid installments of child support required to be paid by an order entered or modified by a court of

competent jurisdiction, or by the order of a magistrate court of this state under the prior enactments of the West Virginia Code, stand as a decretal judgment against the obligor owing the support obligation. Every judgment or decree for the payment of money, shall bear interest from the date of entry unless otherwise provided.

2.3. Sources of income which are subject to withholding are not required to vary the normal pay cycle to accommodate the provisions of the wage withholding. Therefore, in certain instances the full monthly support obligation may not be met each and every month. This places the obligor in arrears despite the compliance with the source of income with legal withholding requirements.

2.4. In those months despite compliance with legal withholding requirements the full monthly support amount is not met prior to the end of the month, interest shall not accrue. These situations include:

2.4.a. The pay cycle of a source of income which is not bi-monthly or

monthly;

2.4.2. Benefit payments which are awarded for a month, but distributed in the subsequent month;

2.4.3. Other occurrences deemed appropriate by the Child Support Enforcement Division.

2.5. If during the period from January 1 to December 31 of any year the frequency with which the obligor receives income changes, the obligation to pay the interest which otherwise would have accrued may be reinstated.

2.6. Nothing in this rule should be construed to apply in instances when the full monthly support amount is not collected as a result of application of the Federal Consumer Credit Protection Act.