

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-2-23

AMENDMENT TO AN EXISTING RULE: YES X NO

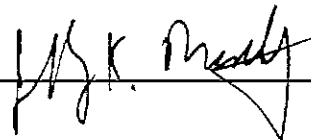
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 78-124

TITLE OF RULE BEING AMENDED: Interstate Income Withholding

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

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.



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AUG 30 1996

**Legislative Rule Making
Review Committee**

Jeffrey K. Matherly
DHHR General Counsel

DATE: August 16, 1996

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Martha J. Hill, Director, CSED

LEGISLATIVE RULE TITLE: Interstate Income Withholding

1. Authorizing statute(s) citation 48A-2-23, 42 U.S.C. 666(b)(9)

45 CFR 303.100 (h)

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?

N/A

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

558-0908

CHILD SUPPORT ENFORCEMENT DIV.
BUILDING 6, ROOM B-817
CAPITOL COMPLEX
CHARLESTON, WV 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 _____

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Interstate Income Withholding

Type of Rule: X Legislative Interpretive Procedural

Agency Child Support Enforcement Division

Address Building 6, Room 817

State Capitol Complex

Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

N/A

3. Objectives of these rules:

To amend the existing rule to bring it into statutory compliance and to update the name of the agency.

Rule Title: Interstate Income Withholding

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

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

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: 7-23-96

Signature of Agency Head or Authorized Representative

Martha J. H. S.

TITLE 97
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 13
INTERSTATE INCOME WITHHOLDING

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§97-13-1. General.

1.1 Scope - This legislative rule establishes procedures to extend the ~~Department of Human Services Child Advocate Office~~ Department of Health and Human Resources, ~~Child Support Enforcement Division~~ system of income withholding to income derived within this State where applicable support orders were issued in other states to assure that child support owed by obligors in this state or any other state will be collected regardless of the residence of the child or its custodial parent.

1.2 Authority - W. Va. Code §48A-2-23, 42 U.S.C. §666(b)(9), 45 C.F.R. §303.100 (h).

1.3 Filing Date -

1.4 Effective Date -

§97-13-2. Interstate Income Withholding.

2.1 Interstate wage withholding is available to enforce an existing order for support cases without proceeding through the URESA or UIFSA process.

2.2 The ~~Child Advocate Office~~ Child Support Enforcement Division will be involved in interstate

(3) situations:

1. An obligee resides in the State of West Virginia and the obligor is in another state.

2. An obligor resides in West Virginia and the obligee resides in another state.

3. Both parties reside outside of West Virginia but the obligor's employment or source of income is located in West Virginia.

2.3 Procedures for interstate income withholding when the obligee resides in West Virginia.

If the obligee is not currently receiving IV-D NPA services, an application for IV-D NPA or income withholding only services and the twenty-five dollar (\$25.00) application fee is required prior to processing the withholding. During the interview with the caretaker/obligee, the ~~paralegal~~ legal assistant must determine the following:

1. The obligor's name, address and social security number;

2. The name and address of the obligor's employer or source of income;

withholding in ~~two~~ (2) three
order originated;

4. The ~~paralegal~~ legal assistant will determine from the Interstate Withholding Directory the information that the other state requires to process the withholding;

5. The ~~paralegal~~ legal assistant will obtain and assemble the required documentation. This may involve obtaining certified copies of documents from other states if the support order was not issued in West Virginia, and complete the Interstate Transmittal form, ESCE-107-U4, from the automated system to send to the other state.

6. The ~~paralegal~~ legal assistant will send the original package to the state in which the obligor resides, a copy to the Central Child Advocate Office Child Support Enforcement Division Central Registry and place a copy in the Child Advocate Office Child Support Enforcement Division record.

2.4 Procedures to implement an income withholding request from another state;

West Virginia requires the following documentation from the other state IV-D agency to initiate withholding for an obligor residing in this state:

1. A certified copy of the support order with all modifications;

2. A certified copy of an income withholding order/notice, if any, still in effect;

3. Where the support of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;

4. A sworn statement of the caretaker or certified statement of a court or governmental entity of the arrearages and the assignment of support rights, if any;

5. A statement of:

a. The name, address, and Social Security Number of the absent parent, if known;

b. The name and address of the absent parent's employer or of any other source of income of the absent parent earned in this state against which income withholding is sought;

c. The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

2.5. The income withholding request will be sent by the other state to the Central Child Advocate Office Central Registry of the Child Support Enforcement Division and then forwarded to the appropriate regional Child Advocate Office Child Support Enforcement Division office.

2.6. The Central Child Advocate Office Child Support Enforcement Division Central Registry shall examine the

3. A copy of the portion whether or not it conforms to West Virginia requirements.

2.7. The Central Child Advocate Office Child Support Enforcement Division Central Registry will remedy any defect it can without the assistance of the requesting state. If the Child Advocate Office Central Registry is unable to make such correction, the requesting state shall immediately be notified of the necessary additions or corrections. In neither case shall the documentation be returned. The Central Child Advocate Office Child Support Enforcement Division Central Registry will forward the documentation to the regional office Child Support Enforcement Division regional office if it appears that there is enough required information to proceed with the withholding. to proceed with any other action that may be necessary while awaiting the necessary information from the other state.

The West Virginia immediate income withholding extends to these cases as well, therefore, once all of the information is obtained, within 15 calendar days of locating the absent parent's employer or source of income, the withholding is to begin using the same timeframes as are required for State cases.

If an arrearage trigger is required on the case, the meeting with the Child Support Enforcement Division and the hearing before the Family Law Master will be scheduled at the regional office of the Child

documentation from the requesting state to determine Master in the county where the absent parent lives or where the absent parent's source of income is located.

If an arrearage trigger is required on the case, within 15 calendar days of location of the absent parent and his or her employer or source of income, the notice of withholding must be sent to the absent parent.

The same timeframes required in in-state cases for notice to the employer/source of income applies in these cases.

If the requesting state does not forward a certified copy of the support order with all modifications because the order is a West Virginia order, the Legal Assistant will be expected to obtain a copy of the appropriate order and any modifications from the proper court clerk.

2.8. The regional Child Advocate Office office of the Child Support Enforcement Division will:

1. if only an income support order or support order with a conditional order of withholding (i.e., the trigger must be met in the future) is received from another state, determine if the trigger amount for income withholding has been reached UNDER THE LAW OF THE STATE WHICH ENTERED THE ORDER, NOT THE LAW OF WEST VIRGINIA. (This is why it is necessary to have a copy of the other state's income withholding law.) If the individual is behind in an

Support Enforcement Division
and before the Family Law

amount to trigger income
withholding under the other

state's law, the paralegal
legal assistant sends the
~~notice to the obligor and~~
~~proceed exactly as in Section~~
~~7121, Intrastate Withholding~~
~~Procedures,~~ is to send the
notice to Withholding Request
from Another State the absent
parent and then proceed exactly
as in the Child Support
Enforcement Division Policy
Manual section on withholding
procedures for in-state cases,
or;

2. If an active income
withholding order is received
(i.e., the trigger was met in
the other state and income
withholding begun), the
~~paralegal~~ legal assistant will
immediately send the notice to
the obligor and then proceed
exactly as in the Child Support
Enforcement Division Policy
Manual section on
withholding procedures for
in-state cases.