

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark in this Box

FILED

AUG 12 1 15 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DHHR - CHILD SUPPORT ENFORCEMENT DIVISION TITLE NUMBER: 97

RULE TYPE: LEGISLATIVE; CITE AUTHORITY WVC 48A-2-9(a)

AMENDMENT TO AN EXISTING RULE: YES NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

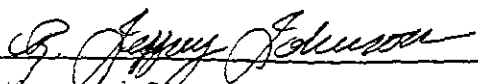
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: DIVIDING THE ARREARAGE PAYMENT IN MULTIPLE
CARETAKER CASES

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 9/15/97 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

ILENE SCHNALL, DEPUTY IN-HOUSE COUNSEL
CHILD SUPPORT ENFORCEMENT DIVISION
1900 KANAWHA BLVD., EAST
BUILDING 6, ROOM 817
CHARLESTON, WV 25305

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: DIVIDING THE ARREARAGE PAYMENT IN MULTIPLE CARETAKER CASES

Type of Rule: X Legislative Interpretive Procedural

Agency DHHR - CHILD SUPPORT ENFORCEMENT DIVISION

Address 1900 KANAWHA BLVD., EAST
BUILDING 6, ROOM 817
CHARLESTON, WV 25305

1. Effect of Proposed Rule

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

2. Explanation of above estimates:

There would be no financial impact if the legislative rule is passed.

3. Objectives of these rules:

Is to determine the procedures for allocating support payments received in excess of the current obligations to pay arrearages owed when the noncustodial parent owes support and arrearages to more than one caretaker.

Rule Title: DIVIDING THE ARREARAGE PAYMENT IN MULTIPLE CARETAKER CASES

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

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

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: AUGUST 8, 1997

Signature of Agency Head or Authorized Representative

B. Jeffrey Johnson

FILED

TITLE 97
LEGISLATIVE RULES
DEPARTMENT OF HUMAN SERVICES

AUG 12 1 15 PM '97

SERIES 9
DIVIDING THE ARREARAGE PAYMENT IN
MULTIPLE CARETAKER CASES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§97-9-1. General.

1.1. Scope. -- This legislative rule establishes procedures by which the Department of Health and Human Resources, Child Support Enforcement Division will allocate support payments received in excess of the current obligations to pay arrearages owed when the noncustodial parent owes support and arrearages to more than one caretaker.

1.2. Authority. -- W.Va. Code §48A-2-9(a).

1.3. Filing Date. --

1.4. Effective Date. --

§97-9-2. Definitions.

2.1. Arrearage. - the total unpaid and overdue support obligation owed by a legally responsible person. Arrearages include interest which has accrued on the unpaid and overdue obligation.

2.2. Caretaker. - A parent or other person having actual physical custody of a child and who is responsible for exercising parental rights and responsibilities with regard to the child.

2.3. Child Support Enforcement Division. - That agency intended by the Legislature to be the single

and separate organizational unit of the state government administering programs of child and spousal support enforcement and meeting the staffing and organizational requirements of the Secretary of the Federal Department of Health and Human Services. W. Va. Code §48A-1A-7.

2.4. Noncustodial Parent. - A parent of a child with respect to whom custody has been adjudicated with the result that such parent has not been granted legal custody of the child. W. Va. Code §48A-1A-13.

§97-9-3. Dividing the Arrearage Payment in Multiple Caretaker Cases.

3.1. When a noncustodial parent owes a support arrearage to more than one caretaker, any payment made in excess of the caretakers current support shall divide evenly between the caretakers owed an arrearage.

3.2. If a caretaker's share of the arrearage payment is more than the arrearage owed to that caretaker, the arrearage for that caretaker shall be paid in full, and the remainder of the payment shall be divided equally among the other caretakers owed an arrearage.

3.3. If one of the caretakers is not owed an arrearage, that caretaker shall receive no part of the excess payment until the arrearages owed to the other caretakers are paid in full.



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Cecil H. Underwood
Governor

Office of the Secretary
State Capitol Complex
Building 3, Room 206
Charleston, West Virginia 25305
Telephone: (304) 558-0684 FAX: (304) 558-1130

Joan E. Ohl
Secretary

August 11, 1997

The Honorable Ken Hechler
Secretary of State
State Capitol
Building 1, Suite 157K
Charleston, West Virginia 25305

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AUG 12 1 15 PM '97

FILED

RE: Legislative Rule § 97-9

Dear Secretary Hechler:

Please accept the attached proposed rule for filing.

Thank you for your attention to this matter. If you should have any questions, please contact Ilene Schnall, Deputy In-House Counsel for the Bureau for Child Support Enforcement, at 558-0907.

Sincerely,


Joan E. Ohl
Secretary

Attachments