

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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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); WVC 48-2-37
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: 14

TITLE OF RULE BEING PROPOSED: PROCEDURES FOR DETERMINING WHEN INTEREST
WILL ACCRUE ON SUPPORT AND ON A JUDGMENT

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.

B. Jeffrey Johnson
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$3.40

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: PROCEDURES FOR DETERMINING WHEN INTEREST WILL ACCRUE ON SUPPORT AND ON A JUDGMENT

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>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

THERE WOULD BE NO FINANCIAL IMPACT IF THIS LEGISLATIVE RULE WERE PASSED.

3. Objectives of these rules:

IS TO DETERMINE WHEN TO CALCULATE INTEREST ON JUDGMENTS AND SUPPORT ARREARAGES THAT HAVE NOT BEEN REDUCED TO A JUDGMENT.

Rule Title: PROCEDURES FOR DETERMINING WHEN INTEREST WILL ACCRUE ON SUPPORT
AND ON A JUDGMENT

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

TITLE 97
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 14
PROCEDURES FOR DETERMINING WHEN INTEREST
WILL ACCRUE ON SUPPORT AND ON A JUDGMENT

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Aug 12 1 20 PM '97

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§97-14-1. General.

1.1. Scope. -- This legislative rule establishes procedures by which the Department of Health and Human Resources, Child Support Enforcement Division (CSED), shall calculate interest on judgment and support arrearages that have not been reduced to a judgment.

1.2. Authority. --
W. Va. Code §48A-2-9(a), W. Va. Code §48-2-37, W. Va. Code §48A-1-3, W. Va. Code §56-6-31.

1.3. Filing Date. --

1.4. Effective Date. --

§97-14-2. Definitions.

2.1. Arrearages - 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. Child Support Enforcement Division - the agency intended by the Legislature to be the single and separate organizational unit of 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.

2.3. Effective Date - the date an obligation starts for enforcement purposes.

2.4. Entry Date - the date an order is entered by the Circuit Clerk of the Court.

2.5. Including Interest - the interest calculation is included in the court ordered judgment amount.

2.6. Inclusive Date - the specific time period for a judgment including the start and end dates. It is the time period for which the arrearages accrued.

2.7. Interest - interest is the compensation allowed by law on unpaid and overdue support obligation.

2.8. Judgment - the official decision or finding of a court upon the respective rights and claims of the parties to an action.

2.9. Plus Interest - where a court enters a judgment amount and states that amount is "plus" interest, the CSED must calculate interest on that judgment amount.

2.10. Retroactive Support Order - order which provides the support obligation is to begin prior to the date that the order is entered.

2.11. Support Order - a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearage, or reimbursements, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief. W. Va. Code §48A-1A-30.

§97-14-3. Interest Will Accumulate on Support Arrearages.

3.1. Mature support installments are judgments for money which accrue statutory interest from the date the payments are due. W. Va. Code §56-6-31.

3.2. Where a court enters a retroactive support order, interest shall accrue from the date the court determines the support obligation became due.

§97-4-1. Interest will be computed on Judgments.

4.1. West Virginia Code §56-6-31 and §48-2-37 authorize interest to accrue on judgments for supports.

4.2. Where a court enters a judgment, interest shall accrue from the date the court determines the judgment became due, unless the judgment is a judgment including interest.

4.3. Where a judgment is a judgment including interest, interest will accumulate upon the entry date of the order.

§97-14-5. Cases with a Specified Judgment Date.

5.1. Where a court enters a judgment for a specified period and states interest is "included" in the judgment, interest is already included in the initial judgment amount. Once the initial judgment is entered, interest shall begin to accrue at the legal rate per annum from the entry date of the order.

5.2. Where the court enters a judgment for a specified period and states the amount is "plus" interest, interest is deemed not to be already included in the initial judgment.

5.3. In cases described in 5.2., the CSED must first calculate interest on the initial judgment amount. This interest shall be added to the initial judgment amount to arrive at the total judgment amount. Once this is done, interest will begin to accrue on the total judgment amount at the legal rate per annum from the entry date of the order.

§97-14-6. Cases with no Specified Judgment Date.

6.1. Where a court enters a judgment with no specified period and states the interest is "included" in the judgment, interest shall accrue when the order is entered.

6.2. Where a court enters a judgment with no specified period and states the amount is

"plus" interest, interest shall accrue the last day of the month before the entry date of the order. This latest amount is added to the initial judgment amount, pursuant to the order. The total judgment amount shall accrue interest from the entry date of the order.



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

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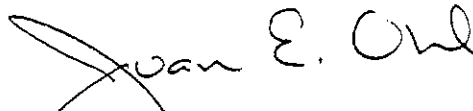
RE: Legislative Rule § 97-14

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