

**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: Commission for the Deaf and Hard of Hearing TITLE NUMBER: 192

CITE AUTHORITY W. Va. Code § 5-14A-9

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

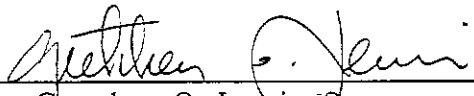
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Fees for Qualified Interpreters

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.


Gretchen O. Lewis, Secretary

Date: August 29, 1996

To: Legislative Rule-Making Review Committee

From: Kay Howard, Director
Regulatory Development
Department of Health and Human Resources

Re: **Fees for Qualified Interpreters 192 CSR 1**

1. Authorizing statute(s) citation: W. Va. Code § 5-14A-9
2.
 - a. Date filed in State Register with Notice of Public Comment Period: 7-26-96
 - b. Other notice, including advertising, given of the public comment period: press release to newspapers
 - c. Date Public Comment Period Ended: 8-26-96
 - d. List of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached _____ No comments received X
 - e. Date of filing in State Register the Agency-Approved proposed Legislative Rule following public comment period: 8-29-96
 - f. Name and phone number of agency contact person: Kay Howard, 558-3223
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: Not Applicable
 - 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:
 - 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:

**Discussion of Public Comments Received
Concerning the Proposed Rule
Fees for Qualified Interpreters, 192 CSR 1**

GENERAL COMMENTS

This proposed new legislative rule establishes uniform fees for qualified interpreters for the deaf and hearing impaired. The fee schedule must be used by any court, department, board, commission, agency, licensing authority, political subdivision or municipality of the state which is required under the provisions of W. Va. Code § 5-14a-1 et seq. to provide an interpreter in certain legal proceedings for an individual who is deaf. The rule is needed in order to comply with W. Va. Code § 5-14A-9. This new law was enacted by the 1996 Legislature in House Bill 4771.

Notice of a public comment period on the proposed rule was filed with the Secretary of State July 26, 1996. The public comment period ended August 26, 1996. No comments were received and no changes have been made to the rule.

**ABSTRACT - PROPOSED RULE
FEES FOR QUALIFIED INTERPRETERS
COMMISSION FOR THE DEAF AND HARD OF HEARING
192 CSR 1**

Summary: This proposed new legislative rule establishes uniform fees for qualified interpreters for the deaf and hearing impaired. The fee schedule must be used by any court, department, board, commission, agency, licensing authority, political subdivision or municipality of the state which is required under the provisions of W. Va. Code § 5-14a-1 et seq. to provide an interpreter in certain legal proceedings for an individual who is deaf. The rule is needed in order to comply with W. Va. Code § 5-14A-9. This new law was enacted by the 1996 Legislature in House Bill 4771.

For further information contact: Commission for the Deaf and Hard of Hearing, Department of Health and Human Resources, 4190 Washington Street, West, Charleston, WV 25313-2439; or the Office of Regulatory Development, Bureau of Operations, Department of Health and Human Resources, State Capitol Complex, Building 3, Room 265, Charleston, West Virginia, 25305, telephone (304) 558-3223.

Copies of the proposed rule may be purchased from the Administrative Law Division of the Office of the Secretary of State, State Capitol Complex, Building 1, Suite 157K, Charleston, WV 25305-0771, telephone (304) 558-6000.

8/28/96

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fees for Qualified Interpreters

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: Commission for the Deaf and Hard of Hearing

Address: 4190 Washington Street, West
Charleston, WV 25313-2439

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					

2. Explanation of above estimates.

The commission does not anticipate any immediate impact on its costs from activity associated with this rule. However, if significant amounts of litigation or mediation occurs, additional funding may be required in the future.

3. Objectives of this rule:

This proposed new legislative rule establishes uniform fees for qualified interpreters for the deaf and hearing impaired. The fee schedule must be used by any court, department, board, commission, agency, licensing authority, political subdivision or municipality of the state which is required under the provisions of W. Va. Code § 5-14a-1 et seq. to provide an interpreter in certain legal proceedings for an individual who is deaf. The rule is needed in order to comply with W. Va. Code § 5-14A-9. This new law was enacted by the 1996 Legislature in House Bill 4771.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The Commission has no information on present costs, and is therefore not able to accurately assess the impact of the proposed fee schedule on the various agencies of state government. The Commission does not anticipate a major fiscal impact. Individuals who need interpreters will benefit in conducting legal activities because of the subsidization of interpreter fees required by the new law. Interpreters will benefit from the existence of a uniform schedule

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

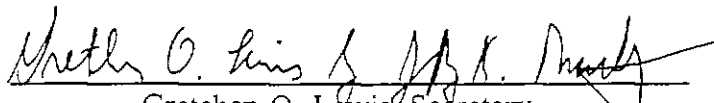
The Commission has no information on present costs, and is therefore not able to the impact of the proposed fee schedule on the various state political subdivisions. The Commission does not anticipate a major fiscal impact.

C. Economic Impact on Citizens/Public at Large.

None.

Date: July 24, 1996

Signature of Agency Head or Authorized Representative


Gretchen O. Lewis, Secretary
Department of Health and Human Resources

**PROPOSED RULE - TITLE 192
WEST VIRGINIA LEGISLATIVE RULES
COMMISSION FOR THE DEAF AND HARD OF HEARING**

SERIES 1

FEES FOR QUALIFIED INTERPRETERS

**Agency-Approved Rule
For Filing with the
Legislative Rule-Making Review Committee**

**WEST VIRGINIA LEGISLATIVE RULES
COMMISSION FOR THE DEAF AND HARD OF HEARING
FEES FOR QUALIFIED INTERPRETERS**

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TITLE 192
WEST VIRGINIA LEGISLATIVE RULES
COMMISSION FOR THE DEAF AND HARD OF HEARING
SERIES 1
FEES FOR QUALIFIED INTERPRETERS

FILED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§ 64-73-1. General.

1.1. Scope. -- This legislative rule establishes fees for the services of qualified interpreters for a deaf person in certain legal proceedings.

1.2. Authority. -- W. Va. Code § 5-14A-9.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Application. -- This rule applies to any court, department, board, commission, agency, licensing authority, political subdivision or municipality of the state which is required under the provisions of W. Va. Code § 5-14a-1 et seq. to provide an interpreter in certain legal proceedings for an individual who is deaf.

1.6. Enforcement. -- This rule is enforced by the commissioner of the commission for the deaf and hard of hearing.

§ 64-67-2. Definitions.

2.1. CDI-P (Certified Deaf Interpreter-Provisional). -- Holders of this provisional certification are interpreters who are deaf or hard of hearing and who have demonstrated a minimum of one (1) year experience working as an interpreter, completion of at least eight (8) hours of training on the RID Code of Ethics, and eight (8) hours of training in general interpretation as it relates to the interpreter who is deaf or hard of hearing. Provisional certification is valid until one (1) year after the Certified Deaf Interpreter (CDI) examination is made available. Provisional certificate holders must take and pass the CDI examination in order to remain certified as a Deaf Interpreter. The CDI is designed to replace the RSC which is no longer offered. Holders of this provisional certificate are recommended for a broad range of assignments where an interpreter who is deaf or hard of hearing would be beneficial.

2.2. CI (Certificate of Interpretation). -- Holders of this certificate are recognized as fully certified in interpretation and have demonstrated the ability to interpret between American Sign Language (ASL) and spoken English in both sign-to-voice and voice-to-sign. The interpreter's ability to transliterate is not considered in this certification. Holders of the CI are recommended for a broad range of interpreting assignments.

2.3. CI and CT (Certification of Interpretation and Certificate of Transliteration). -- Holders of both full certificates have demonstrated competence in both interpretation and transliteration

assignments.

2.4. Commission. -- West Virginia commission for the deaf and hard of hearing.

2.5. Commissioner. -- The commissioner of the commission for the deaf and hard of hearing.

2.6. CSC (Comprehensive Skills Certificate). -- Holders of this full certificate have demonstrated the ability to interpret between American Sign Language and spoken English and to transliterate between spoken English and an English-based sign language. The CI and CT are replacements for the CSC. The CSC examination was offered until 1995. Holders of this certificate are recommended for a broad range of interpreting and transliterating assignments.

2.7. CT (Certificate of Transliteration). -- Holders of this certificate are recognized as fully certified in transliteration and have demonstrated the ability to transliterate between English-based sign language and spoken English in both sign-to-voice and voice-to-sign. The transliterator's ability to interpret is not considered in this certification. Holders of the CT are recommended for a broad range of transliteration assignments.

2.8. Deaf. -- The hearing of an individual is nonfunctional for the ordinary purposes of life.

2.9. IC (Interpretation Certificate). -- Holders of this partial certificate demonstrated the ability to transliterate between American Sign Language and spoken English. This individual received scores on the CSC examination which prevented the awarding of full CSC certification or partial IC/TC Certification. The IC is no longer offered.

2.10. IC/TC (Interpretation/Transliteration Certificate). -- Holders of this partial certificate demonstrated ability to transliterate between English and a signed code for English and the ability to interpret between American Sign Language and spoken English. This individual received scores on the CSC examination which prevented the awarding of full CSC certification. The IC/TC is no longer offered.

2.11. Level I (Novice). -- The Level I Certification indicates that the interpreter is a novice interpreter. The interpreter has good and clear signing skills, but may not know the appropriate sign for everything needed. The interpreter may fingerspell more than is necessary, may demonstrate considerable lag time, and may express deletions to keep up with interpreting. The interpreter may have difficulty in sign-to-voice situations.

2.12. Level II (Intermediate). -- The Level II Certification indicates that the interpreter is an intermediate interpreter who has more skills in interpreting than a novice interpreter. The interpreter may demonstrate a larger sign vocabulary and may use considerably less fingerspelling. The interpreter may keep up a bit better, but may still lag behind farther than is comfortable, deleting more than is acceptable. The interpreter may do well voice-to-sign, but clearly show difficulty in sign-to-voice. The interpreter demonstrates skills that may be adequate for some one-to-one interpreting situations.

2.13. Level III (Generalist). -- The Level III Certification indicates that the interpreter is a

generalist interpreter. The interpreter is one who shows a good sign vocabulary but may have some problems in sign-to-voice.

2.14. Level IV (Advanced). -- The Level IV Certification indicates that the interpreter is an advanced interpreter. The interpreter does very well in voice-to-sign. The interpreter demonstrates little difficulty in sign-to-voice. The interpreter may demonstrate oddities in sign style, choice of signs used; however, the interpreter demonstrates the skill necessary for just about any interpreting situation.

2.15. Level V (Master). -- The Level V Certification indicates that the interpreter is a master interpreter. The interpreter very rarely demonstrates difficulty in any interpreting situation.

2.16. Non-Certified/Non-Screened. -- Interpreters who are learning sign language and not yet certified or licenced.

2.17. OIC:C (Oral Interpreting Certification: Comprehensive). -- Holders of this generalist certificate demonstrate the ability to transliterate a spoken message from a person who hears to a person who is deaf or hard of hearing and the ability to understand and repeat the message and intent of the speech and mouth movements of the person who is deaf or hard of hearing. The OIC:C is no longer offered.

2.18. OIC:S/V (Oral Interpreting Certificate: Spoken to Visible). -- Holders of this partial certificate demonstrated the ability to transliterate a spoken message from a person who hears to a person who is deaf or hard of hearing. This individual received scores on the OIC:C examination which prevented the awarding of full OIC:C certification. The OIC:S/V is no longer offered.

2.19. OIC:V/S (Oral Interpreting Certificate: Visible to Spoken). -- Holders of this partial certificate demonstrated the ability to understand the speech and silent mouth movements of a person who is deaf or hard of hearing and to repeat the message for a hearing person. This individual received scores on the OIC:C examination which prevented the awarding of full OIC:C certification. The OIC:V/S is no longer offered.

2.20. Qualified Interpreter. -- An interpreter certified by the national association of the deaf (NAD) or registry of interpreters for the deaf (RID), or, in the event an interpreter so certified is not available, an interpreter whose qualifications are otherwise demonstrated and accepted by the commissioner as proving a level of interpretative skills suitable to the situation and the individual using the interpretive services.

2.21. RSC (Reverse Skills Certificate). -- Holders of this full certificate demonstrated the ability to interpret between American Sign Language and English-based sign language or transliterate between spoken English and a signed code for English. Holders of this certificate are deaf or hard of hearing and interpretation/transliteration is rendered in American Sign Language, spoken English, a signed code for English or written English. (The CDI (in development) is designed to replace the RSC which is no longer offered.) Holders of the RSC are recommended for a broad range of interpreting assignments where the use of an interpreter who is deaf or hard of hearing would be beneficial.

2.22. SC:L (Specialist Certificate: Legal). -- Holders of this specialist certificate have demonstrated specialized knowledge of legal settings and greater familiarity with language used in the legal system. Generalist certification and documented training and experience is required prior to sitting for this exam. Holders of SC:L are recommended for a broad range of assignments in a legal setting.

2.23. SC:PA (Specialist Certificate: Performing Arts). -- Holders of this certificate were required to hold RID generalist certification (CSC) prior to sitting for this examination and have demonstrated specialized knowledge in performing arts interpretation. Holders of this certificate are recommended for a broad range of assignments in the performing arts. The SC:PA is no longer offered.

2.24. TC (Transliteration Certificate). -- Holders of this partial certificate demonstrated the ability to transliterate between spoken English and a signed code for English. This individual received scores on the CSC examination which prevented the awarding of full CSC certification or IC/TC certification. The TC is no longer offered.

§ 64-73-3. Fees Established.

3.1. Each interpreting assignment and interpreter's experience is different and fees may vary. Hiring agencies and interpreters are encouraged to agree on terms prior to the interpreting assignment.

3.2. The minimum hourly rates for various classes of interpreters are shown in Table 192-1-A found at the end of this rule.

3.3. The total fee shall be determined based on the following:

3.3.1. Interpreters shall be paid for a minimum of two (2) hours regardless of the actual time required for the assignment.

3.3.2. Time spent over two (2) hours shall be paid in quarter (¼) hour increments, rounded to the nearest fifteen (15) minutes.

3.3.3. Travel time shall be included as part of the minimum two (2) hours, but shall be counted separately if the total time required for the assignment exceeds two (2) hours.

3.3.4. The fee for an interpreter shall include reimbursement for reasonable and necessary expenses incurred, such as mileage, lodging and meals according to the usual and customary standards of the appointing agency.

3.3.5. Interpreters shall provide the appointing authority with an advance estimate of travel time and other anticipated expenditures.

3.3.6. The appointing authority shall provide an estimate of the time required and shall specify a methodology for determining additional time.

3.3.7. If the appointing authority cancels the assignment at least twenty-four (24) hours prior to the scheduled time and the estimated time for the assignment is for no more than one (1) day, then no payment is required.

3.3.8. If the appointing authority cancels the assignment less than twenty-four (24) hours prior to the scheduled time and the estimate time for the assignment is for no more than one (1) day, then fifty percent (50%) of the anticipated payment is required.

3.3.9. If the appointing authority cancels the assignment on the day of the assignment and the estimated time for the assignment is for no more than one (1) day, then one hundred percent (100%) of the anticipated payment is required.

3.3.10. If the appointing authority cancels the assignment at least forty-eight (48) hours prior to the scheduled starting time of the assignment and the estimated time for the assignment is for more than one (1) day, then no payment is required.

3.3.11. If the appointing authority cancels the assignment at least twenty-four to forty-eight (24-48) hours prior to the scheduled starting time of the assignment and the estimated time for the assignment is for more than one (1) day, then fifty percent (50%) of the anticipated payment is required.

3.3.12. If the appointing authority cancels the assignment less than twenty-four (24) hours prior to the schedule starting time of the assignment, and the estimated time for the assignment is for more than one (1) day, then one hundred percent (100%) of the anticipated payment is required.

3.3.13. If the client does not appear ("no show") and the interpreting assignment is scheduled for two (2) hours or less, refer to Section 3.3.1 of this rule.

3.3.14. If the client does not appear ("no show") and the interpreting assignment is scheduled for more than two (2) hours, refer to Sections 3.3.7, 3.3.8, 3.3.9, 3.3.10, 3.3.11 and 3.3.12 of this rule.

3.3.15. For day-long conferences and long meetings, more than one (1) interpreter shall be hired to alternate interpreting time every twenty to thirty (20-30) minutes. (Interpreters cannot effectively interpret for lengthy periods of time and some physical problems such as carpal tunnel syndrome can develop from overuse.) Each interpreter shall be paid for the entire time.

3.3.16. Interpreters with the NAD ratings of Level III, IV, and V or RID ratings of CSCs, CI/CTs shall be used in legal and mental health settings due to the intense nature of the assignment and shall be paid accordingly.

3.3.17. Interpreters with the RID ratings of RSCs or CDI-Ps shall be used in legal and mental health settings when the deaf consumer does not demonstrate fluency in American Sign Language or a signed system.

3.3.18. Educational interpreters shall receive two (2) weeks of severance pay if the

student for whom they interpret drops out unless the interpreter is reassigned to another student.

§ 64-73-4. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule who desire a contested case hearing to determine any rights, duties, interests, or privileges, shall do so in a manner prescribed in W. Va. Division of Health Procedural Rules, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.

§ 64-73-5. Severability.

The provisions of this rule are severable. If any provision of this rule is held invalid, the remaining provisions remain in effect.

Table 192-1-A. Minimum Fees.

QUALIFIED INTERPRETER LEVEL	MINIMUM HOURLY RATE
CSC,CT & CI,RSC,CDI-P,SC:L,SC:PA,OIC:C, NAD Level V	\$30.00
CI or CT, NAD Level IV	\$25.00
IC,TC,IC/TC, OIC:S/V, OIC:V/S, NAD Level III	\$20.00
NAD Level II	\$15.00
NAD Level I	\$10.00
NON-CERTIFIED/NON-SCREENED	\$ 7.00
Assignments on weekends or between 10:00 PM - 7:00 AM	Hourly Rate plus \$3.00
*If an interpreter works an assignment for more than one (1) hour without a team interpreter, then an extra \$5.00 shall be added per hour.	