

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF THE
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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 ☒

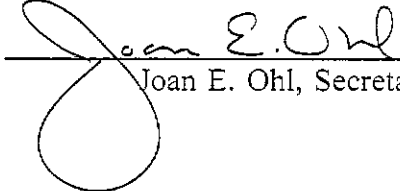
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Fees for Qualified Interpreters

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Joan E. Ohl, Secretary

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

SERIES 1

FEES FOR QUALIFIED INTERPRETERS

**Modified Rule
As Approved by the
Legislative Rule-Making Review Committee**

192 CSR 1

MODIFIED RULE
WEST VIRGINIA LEGISLATIVE RULE
COMMISSION FOR THE DEAF AND HARD OF HEARING

SERIES 1

FEES FOR QUALIFIED INTERPRETERS

TABLE OF CONTENTS

§ 64-73-1. General	1
§ 64-67-2. Definitions	1
§ 64-73-3. Fees Established	4
§ 64-73-4. Administrative Due Process	6
Table 192-1-A. Minimum Fees	7

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

§ 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). -- A certification level assigned by the RID to individuals 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 examination is made available. Individuals with provisional certificates are required by the RID to take and pass the certified deaf interpreter examination in order to remain certified as a deaf interpreter. The certified deaf interpreter is designed to replace the RSC which is no longer offered. Individuals with a 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). -- A certification level assigned by the RID to individuals who are fully certified interpreters and have demonstrated the ability to interpret between American Sign Language and spoken English in both sign-to-voice and voice-to-sign. The interpreter's ability to transliterate is not considered in this certification. Individuals who have a CI are recommended for a broad range of interpreting assignments.

2.3. CI and CT (Certification of Interpretation and Certificate of Transliteration). --A

certification level assigned by the RID to individuals who have demonstrated competence in both interpretation and transliteration and have the same flexibility of job acceptance as holders of the CSC. Holders of the CI and CT can be used for a broad range of 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). -- A certification level assigned by the RID to individuals who 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. Individuals who have a CSC can be used for a broad range of interpreting and transliterating assignments.

2.7. CT (Certificate of Transliteration). -- A certification level assigned by the RID to individuals who are 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. Individuals who have a CT can be used 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). -- A partial certification level assigned by the RID to individuals who have demonstrated the ability to transliterate between American Sign Language and spoken English. Individuals who have an IC 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 by the RID.)

2.10. IC/TC (Interpretation/Transliteration Certificate). -- A partial certification level assigned by the RID to individuals who have demonstrated ability to transliterate between English and a signed code for English, and the ability to interpret between American Sign Language and spoken English. Individuals who have an IC received scores on the CSC examination which prevented the awarding of full CSC certification. (The IC/TC is no longer offered by the RID.)

2.11. Level I (Novice). -- The NAD certification level for a novice interpreter who has good and clear signing skills, but may not know the appropriate sign for everything needed. The interpreter might finger spell more than is necessary, might demonstrate considerable lag time, express deletions to keep up with interpreting and/or have difficulty in sign-to-voice situations.

2.12. Level II (Intermediate). -- The NAD certification level for an intermediate interpreter who has more skills in interpreting than a novice interpreter. In comparison to a Level I interpreter the Level II interpreter might demonstrate a larger sign vocabulary and use considerably less fingerspelling. The Level II interpreter might keep up a bit better, but might still lag behind farther than is comfortable, deleting more than is acceptable. The Level II

interpreter might do well voice-to-sign, but clearly show difficulty in sign-to-voice. The interpreter demonstrates skills that would be adequate for some one-to-one interpreting situations.

2.13. Level III (Generalist). -- The NAD certification level for a generalist interpreter.-The Level III interpreter has a good sign vocabulary but might have some problems in sign-to-voice.

2.14. Level IV (Advanced). -- The NAD certification level for an advanced interpreter who does very well in voice-to-sign interpretation and demonstrates little difficulty in sign-to-voice interpretation. The Level IV interpreter might demonstrate oddities in sign style and choice of signs used but demonstrates the skill necessary for just about any interpreting situation.

2.15. Level V (Master). --The NAD certification level for a master interpreter who very rarely demonstrates difficulty in any interpreting situation.

2.16. NAD. -- National Association of the Deaf.

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

2.18. OIC:C (Oral Interpreting Certification: Comprehensive). -- A certification level assigned by the RID to individuals who 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 by the RID.)

2.19. OIC:S/V (Oral Interpreting Certificate: Spoken to Visible). --A partial certification level assigned by the RID to individuals who have 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.

2.20. OIC:V/S (Oral Interpreting Certificate: Visible to Spoken). -- A partial certification level assigned by the RID to individuals who have 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. An individual with an OIC:V/S certificate received scores on the OIC:C examination which prevented the awarding of full OIC:C certification. (The OIC:V/S is no longer offered by the RID.)

2.21. Qualified Interpreter. -- An interpreter certified by NAD or RID, or., 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.

2.22. RID. -- Registry of Interpreters for the Deaf.

2.23. RSC (Reverse Skills Certificate). -- A certification level assigned by the RID to individuals who have 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. Individuals with an RSC certificate are deaf or hard of hearing and under interpretation/transliteration is rendered in American Sign Language, spoken English, a signed code for English or written English. 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. (The RID no longer offers an RSC and is developing standards for a replacement CDI certificate.)

2.24. SC:L (Specialist Certificate: Legal). -- A certification level assigned by the RID to individuals who have demonstrated specialized knowledge of legal settings and greater familiarity with language used in the legal system. Generalist certification and documented training and experience are prerequisites for this certificate. Holders of an SC:L can be used for a broad range of assignments in a legal setting.

2.25. SC:PA (Specialist Certificate: Performing Arts). -- A certification level assigned by the RID to individuals who have demonstrated specialized knowledge in performing arts interpretation. Individuals with an SC:PA can be used in a broad range of assignments in the performing arts. (The SC:PA is no longer offered by the RID.)

2.26. TC (Transliteration Certificate). -- A partial certification level assigned by the RID to individuals who have demonstrated the ability to transliterate between spoken English and a signed code for English. Individuals with a TC received scores on the CSC examination which prevented the awarding of full CSC certification or IC/TC certification. (The TC is no longer offered by the RID.)

§ 64-73-3. Fees Established.

3.1. Each interpreting assignment and interpreter's experience is different, and fees may vary. The appointing authority 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 set forth in Table 192-1-A 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 for the assignment and shall specify a methodology for determining the additional time required by the assignment;

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 no more than one (1) day, then the appointing authority is not required to pay a fee;

3.3.8. If the appointing authority cancels the assignment less than twenty-four (24) hours prior to the scheduled time, and the estimated time for the assignment is no more than one (1) day, then the appointing authority shall pay the interpreter fifty percent (50%) of the anticipated total fee;

3.3.9. If the appointing authority cancels the assignment on the day of the assignment and the estimated time for the assignment is no more than one (1) day, then the appointing authority shall pay the interpreter one hundred percent (100%) of the anticipated total fee;

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 the appointing authority is not required to pay the interpreter;

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 the appointing authority shall pay the interpreter fifty percent (50%) of the anticipated total fee;

3.3.12. If the appointing authority cancels the assignment less than twenty-four (24) 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 the appointing authority shall pay the interpreter one hundred percent (100%) of the anticipated total fee;

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

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

3.3.15. For day-long conferences and long meetings, the appointing authority shall have more than one (1) interpreter available and shall alternate interpreters every twenty to thirty (20-30) minutes in order to promote effective interpretation and protection of interpreters from the development of physical problems such as carpal tunnel syndrome.- The appointing authority shall

pay each interpreter for the entire time required by the assignment;

3.3.16. Interpreters with an NAD of Level III, IV, or V certificate or an RID CSC or CI/CT certificate 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 an RID RSC or CDI-P certificate 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; and

3.3.18. An educational interpreter shall receive two (2) weeks of severance pay if the student for whom he or she interprets 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.

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.	

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Commission for the Deaf and Hard of Hearing

Subject: Fees for Qualified Interpreters

PERTINENT DATES

Filed for public comment: July 26, 1996

Public comment period ended: August 26, 1996

Filed following public comment period: August 29, 1996

Filed LRMRC: August 29, 1996

Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 sets forth conditions upon which an interpreters total fee is to be based. Interpreters are to be paid for a minimum of 2 hours regardless of the actual time required for the assignment. Provision is also made for travel time and the reimbursement of expenses. This section also sets forth the amount of the fee which must be paid when the appointing authority cancels the assignment or where the client does not show up.

Section 4 provides that persons adversely affected by the enforcement of the rule may requested a contested case hearing under Department of Health Procedural Rules.

Section 5 is a severability section which needs to be deleted.

Table A sets forth the minimum hourly rates for interpreters which range from \$7/hour for non-certified/non-screened interpreters to \$30/hour for the most advanced certifications. A \$3 differential is added per hour to all categories for weekends or hours between 10:00 p.m. and 7:00 a.m..

AUTHORITY

Statutory authority: W.Va. Code, §5-14A-9, which provides, in part, as follows:

Notwithstanding the provisions of section seven, article five, chapter fifty-seven with respect to fees, an interpreter appointed under the provisions of this article shall be entitled to a reasonable fee to be established by the West Virginia commission for the deaf and hard-of-hearing under a fee schedule promulgated by legislative rule pursuant to the provisions of chapter twenty-nine-a of this code...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.



FILED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

West Virginia Legislature
Legislative Rule-Making Review Committee

Room NB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vicki Douglas, Co-Chair

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Adm. Assistant

December 19, 1996

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Kay Howard
Department of Health and Human Resources
Building 3, Capitol Complex
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Fees for Qualified Interpreters

The Legislative Rule-Making Review committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate part of the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reason for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.