

**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: Division of Health  
Department of Health and Human Resources TITLE NUMBER: 64

RULE TYPE: Legislative; CITE AUTHORITY WV Code §16-1-7 and 16-22A-2

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 RULE BEING PROPOSED: 24

TITLE OF RULE BEING PROPOSED: Newborn Hearing Screening

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 April 28, 2000 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Beth Marquart, Director, Office of Regulatory Support  
Department of Health & Human Resources  
Capitol Complex - Building 3, Room 201  
Charleston, WV 25305

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

  
Joan E. Oehl, Secretary

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: March 24, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Division of Health  
Department of Health and Human Resources  
State Capitol Complex, Building 3, Room 201, Charleston, WV 25305  
Telephone: (304) 558-2951

LEGISLATIVE RULE TITLE: Newborn Hearing Screening, 64CSR24

1. Authorizing statute(s) citation: WV Code Section 16-1-7 and 16-22A-2

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
March 24, 2000

b. What other notice, including advertising, did you give of the hearing?  
Notice of the proposed rule was sent to entities to be regulated by the rule,  
including the Newborn Hearing Screening Advisory, the Development  
Disabilities Council, the Deaf and Hard of Hearing Committsion, and the WV  
Hospital Association.

c. Date of Public Hearing(s) or Public Comment Period ended:  
April 28, 2000



N/A

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b. Date of hearing or comment period:

N/A

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

N/A

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d. Attach findings and determinations and reasons:

Attached  N/A

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**Newborn Hearing Screening  
H.B. 2388**

**Proposed Rules  
Brief Summary of the Rule**

The proposed rule shall establish the policy of this state in relating to two newborn infant programs. Every newborn infant shall be evaluated by procedures approved by the state division of health for the detection of hearing impairments, in an effort to reduce the negative consequences of such loss. The birth score program shall be implemented and designed to combat post neonatal mortality and to detect debilitating conditions and possible developmental delays by assessing the newborn infant immediately after delivery.

**Newborn Hearing Screening  
H.B. 2388**

**Proposed Rules  
Statement of Circumstances Which Require the Proposed Rule**

This rule has been legislatively mandated by House Bill 2388 that was passed on March 14, 1998. By testing newborn infants for hearing impairments, the negative consequences of such loss may be reduced.

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:**

**Type of Rule:**     X  **Legislative**                          **Interpretive**                          **Procedural**

**Agency:**            Division of Health  
                               Department of Health and Human Resources

**Address:**            Building 3, Capitol Complex  
                               Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
<b>Estimated Total Cost</b>	\$	\$	\$	\$190,133	\$190,133
<b>Personal Services</b>				\$61,617	\$61,617
<b>Current Expense</b>				\$53,773	\$53,773
<b>Repairs &amp; Alterations</b>				\$0	\$0
<b>Equipment</b>				\$0	\$0
<b>Other</b>				\$74,743	\$74,743
<b>Revenue</b>				\$0	\$0

**2. Explanation of above estimates.**

**PERSONAL SERVICES**

1.00 FTE - Nurse II	\$28,538
0.25 FTE - Programmer Analyst II	8,171
0.50 FTE - Data Entry Operator I	6,310
FICA, Retirement, Workers' Comp @ 23.70%	\$10,196
Health Insurance and Fees @ \$4,801	<u>8,402</u>
<b>TOTAL</b>	<b>\$61,617</b>

**CURRENT EXPENSE**

Medical Fees for hearing tests financed by Office of Maternal and Child Health (OMCH)	\$4,533
OMCH reimbursement for home visits for 400 newborns @ \$74 per visits	29,600
Travel expenses for advisory board members	1,000
Hospitality - advisory board members	400
Telephone - long distance follow-up calls	800
Other - Child care for parent of advisory committee	160
Contract with WVU-Birth Score Center for training hospital staff	<u>17,280</u>
<b>TOTAL</b>	<b>\$53,773</b>

**OTHER**

The DRG cost for hospital delivery will increase approximately \$20.00 per child to cover cost of inpatient screening for Medicaid (11,000 births at \$20.00 x 25.22% State match)	\$55,484
10% (1,100) of Medicaid births will require a second screening at an estimated cost of \$45.56 (CPT Code 92587*) per test x 25.22% State match	12,639
An estimate of 3% (330) Medicaid births will be positive and will require a diagnostic evaluation at an estimated cost of \$79.54 (CPT Code 92585*) per test x 25.22% State match	<u>6,620</u>
<b>TOTAL</b>	<b>\$74,743</b>

\* Medicaid fee is under consideration.

**GRAND TOTAL**                      \$190,133

**3. Objectives of this rule:**

This rule establishes a reasonable fee schedule, a cost-effective screening protocol, and reporting and referral requirements for the inpatient screening of newborn infants for detection of hearing loss, to be effective on July 1, 2001.

**4. Explanation of Overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government.**

The Department of Health and Human Resources will incur administrative cost for implementation of this bill in an amount of \$190,133 in general revenue funds for the first year.

It is estimated that 1,042 births will be covered by Public Employees Insurance Agency. The cost for this is estimated at \$28,044 (1,042 births \* \$20.00 for increased DRG cost, 104 \* \$45.56 for outpatient screening to meet intent of legislation (home births, out of state births, etc.) and 31 \* \$79.54 positives requiring a diagnostic evaluation. This cost is not included in the fiscal note calculations.

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

The hospital industry will incur equipment costs estimated at \$119,000 for the thirty-four (34) birthing facilities throughout the State. Equipment necessary to administer the tests has been purchased by the State's birthing facilities. This cost has not been included in the fiscal note calculations.

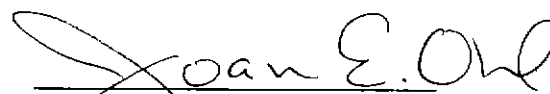
Third party insurance carriers or the hospitals throughout the State will incur estimated costs of \$407,251 (8,532 births \* \$45.56 inpatient screening, and 233 \* \$79.54 positives requiring a diagnostic evaluation). This cost is not included in the fiscal note calculations.

Infants who have significant hearing loss, will without regard to income be eligible for public programs, such as Birth to Three (Early Intervention) and Ski\*Hi, administered by the Romney School.

**C. Economic Impact on Citizens/Public at Large.**

There should be no economic impact of citizens at large.

**Signature of Agency Head or Authorized Representative**

  
Joan E. Ohl, Secretary  
Department of Health and Human Resources

**TITLE 64**  
**WEST VIRGINIA LEGISLATIVE RULES**  
**DIVISION OF HEALTH**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**SERIES 24**  
**NEWBORN HEARING SCREENING**

64CSR24

Title 64  
Legislative Rules  
Division of Health

Series 24  
Newborn Hearing Screening

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MAR 24 10 35 AM '00  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§64-24-1. General.**

1.1. Scope. – This rule establishes a reasonable fee schedule, a cost-effective screening protocol, and reporting and referral requirements for the screening of newborn infants for hearing impairments, all to be effective on July 1, 2001. This rule should be read in conjunction with W.Va. Code §16-22A-1 et seq. The W.Va. Code is available in public libraries and on the Legislature's webpage, <http://www.legis.state.wv.us/>.

1.2. Authority. – W. Va. Code §§ 16-1-7 and 16-22A-2.

1.3. Filing Date. –

1.4. Effective Date. –

**§64-24-2. Application and Enforcement.**

2.1. Application. – This rule applies to all infants born in West Virginia and to the health care providers caring for infants at birth.

2.2. Enforcement. – This rule is enforced by the director of the division of health.

**§64-24-3. Definitions.**

3.1. Advisory Committee. – The West Virginia Hearing Impairment Testing Advisory Committee created in W.Va. Code §16-22A-4 to advise the director regarding the protocol, validity, monitoring and cost of newborn hearing screening procedures required under W.Va. Code §16-22A-1 et seq.

3.2. Director. – The director of the division of health or his or her lawful designee.

3.3. Division. - The division of health.

3.4. Health Care Provider. – Physician or licensed midwife present during or immediately after delivery.

**§64-24-4. When Screening is Required.**

4.1. W.Va. Code §16-22A-1 et seq. requires that all infants born in a licensed health care facility be screened for hearing impairments except when there is no third-party payor for the screening and the parents refuse to have the screening performed, as in W.Va. Code §16-22A-3(c).

4.2. When the birth takes place in a licensed health care facility and there is a third-party payor, the health care provider present at the birth shall immediately perform or cause to be performed screening for hearing impairments.

4.3. When an infant is born in a nonlicensed facility, including a home, the health care provider shall inform the parents of the need to obtain hearing screening within the first month of the infant's life and shall refer the infant for screening in accordance with this rule.

**§64-24-5. Screening Protocol.**

5.1. The director shall prescribe newborn screening procedures to detect hearing loss.

5.2. The director with the advice of the advisory committee may update or modify the screening procedures required according to protocol, technology and current national standards.

5.3. The health care provider shall perform, or cause to be performed, screening in both ears on a newborn shortly after birth, when the birth occurs in a health care facility, or shall inform the parents or guardians of the need to obtain screening within the first month of the infant's birth, if the birth does not occur in a health care facility.

5.4. If an infant fails the initial inpatient screening, a second screening shall be performed prior to discharge from the health care facility.

5.5. Personnel trained in the use of equipment and following the equipment manufacturer's guidelines shall perform the screening according to the American Academy of Pediatrics (AAP) standards.

**§64-24-6. Screening Fee Schedule.**

6.1. The fee for newborn hearing screening shall be included in the covered delivery charges for a newborn when the birth occurs at a licensed health care facility.

6.2. The fee for newborn hearing screening is subject to an annual review.

#### **§64-24-7. Screening Payment.**

7.1. For infants covered by Medicaid, the cost of providing newborn hearing screening shall be incorporated into the Diagnostic Related Group (DRG) process as an add on provision or adjustment.

7.2. For insured infants, the newborn hearing screening required shall be a covered benefit reimbursable by all health insurers except for health insurers that offer only supplemental coverage policies.

7.3. When the birth takes place in a licensed health care facility, in the absence of the third party payor when the parents' consent for the newborn hearing screening has been given, the hospital or other health care facility shall pay the charges for the required newborn screening.

#### **§64-24-8. Screening Reporting and Referral.**

8.1. The health care provider shall record or cause to be recorded in the medical record and on the Birth Score Developmental Risk Screen, the screening results.

8.2. The health care provider shall report or cause to be reported to parents or guardians, and to family primary care providers prior to discharge if the birth occurs in a licensed health care facility, the screening results.

8.3. The health care provider shall send a written copy of the screening results within ten (10) days of the newborn's birth to the Birth Score Office at the West Virginia University Department of Pediatrics, P. O. Box 9214, Morgantown, WV 26506-9214.

#### **§64-24-9. Confidentiality.**

9.1. Anyone who obtains confidential information while implementing W.Va. Code §16-22A-1 et seq. may disclose it only to reporting sources, persons demonstrating a need that is essential to health related research or care of the infant, or as required by law.

9.2. Anyone who obtains confidential information while implementing W.Va. Code §16-22A-1 et seq. shall provide a statement that he or she fully understands the confidentiality of the information and will maintain it.

**§64-24-10. Penalties.**

10.1. Anyone violating the provisions of W.Va. Code §16-22A-1 et seq. or this rule is subject to the penalties provided in W.Va. Code §16-1-18.