WEST VIRGINIA CODE: §48-18-126

§48-18-126. Review and adjustment of child support orders.

(a) Either parent or, if there has been an assignment of support to the Bureau for Child Support enforcement shall have the right to request an administrative review of the child support award in the following circumstances:

(1) Where the request for review is received thirty-six months or more after the date of the entry of the order or from the completion of the previous administrative review, whichever is later, the Bureau for Child Support enforcement shall conduct a review to determine whether the amount of the child support award in such order varies from the amount of child support that would be awarded at the time of the review pursuant to the guidelines for child support awards contained in article 13-101, *et seq*. If the amount of the child support award under the existing order differs by ten percent or more from the amount that would be awarded in accordance with the child support guidelines, the Bureau for Child Support enforcement shall file with the family court a motion for modification of the child support order. If the amount of the child support award under the existing order differs by less than ten percent from the amount that would be awarded in accordance with the child support guidelines, the Bureau for Child Support enforcement may, if it determines that such action is in the best interest of the child or otherwise appropriate, file with the family court a motion for modification of the child support order.

(2) Where the request for review of a child support award is received less than thirty-six months after the date of the entry of the order or from the completion of the previous administrative review, the Bureau for Child Support enforcement shall undertake a review of the case only where it is alleged that there has been a substantial change in circumstances. If the Bureau for Child Support enforcement determines that there has been a substantial change in circumstances and if it is in the best interests of the child, the bureau shall file with the family court a motion for modification of the child support order in accordance with the guidelines for child support awards contained in article 13-101, *et seq*., of this chapter.

(b) The Bureau for Child Support enforcement shall notify both parents at least once every three years of their right to request a review of a child support order. The notice may be included in any order granting or modifying a child support award. The Bureau for Child Support enforcement shall give each parent at least thirty days' notice before commencing any review and shall further notify each parent, upon completion of a review, of the results of the review, whether of a proposal to move for modification or of a proposal that there should be no change.

(c) When the result of the review is a proposal to move for modification of the child support order, each parent shall be given thirty days' notice of the hearing on the motion, the notice to be directed to the last known address of each party by first-class mail. When the result of the review is a proposal that there be no change, any parent disagreeing with that proposal

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may, within thirty days of the notice of the results of the review, file with the court a motion for modification setting forth in full the grounds therefor.

(d) For the purposes of this section, a "substantial change in circumstances" includes, but is not limited to, a changed financial condition, a temporary or permanent change in physical custody of the child which the court has not ordered, increased need of the child or other financial conditions. "Changed financial conditions" means increases or decreases in the resources available to either party from any source. Changed financial conditions includes, but is not limited to, the application for or receipt of any form of public assistance payments, unemployment compensation and workers' compensation or a fifteen percent or more variance from the amount of the existing order and the amount of child support that would be awarded according to the child support guidelines.

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