

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 95-171

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

- a. The treatment clause in the rule-making order should read: “SECTION 1. PD 3.039 is created to read:”.
- b. Throughout the rule, the term “state public defender” should be shown in lowercase.
- c. In s. PD 3.039, pars. “a)” to “d)” should be renumbered as subs. (1) to (4).
- d. In the third paragraph of s. PD 3.039, the second sentence should be written as an introductory clause to the table or tables that follow. For example, the sentence could read: “Continuing eligibility is based on client income remaining below gross monthly amounts in the following table:”. The table should be preceded with an informative title and, if necessary, explanatory material should be included as a footnote to the table.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. Section PD 3.039 (intro.) should be rewritten to read:

If a client has originally qualified for appointment of counsel by a determination of indigency, the state public defender shall apply the following financial guidelines when a client or client’s spouse obtains a higher level of income or receives liquid assets:

b. Presumably, a redetermination of indigency in the first paragraph of s. PD 3.039 is meant to occur when a client's wages or assets have increased. Consequently, the phrases "in income" and "in liquid assets" should be replaced by the phrases "resulting in increased income" and "resulting in increased liquid assets," respectively.

c. In the second paragraph of s. PD 3.039, the phrase "included in subsection (c) of this rule" should be replaced by the phrase "in sub. (3)."

d. The first sentence of the third paragraph of s. PD 3.039 should be rewritten to read:

The gross income eligibility table in this subsection applies to those individuals who originally qualified for public defender representation under this chapter, but who obtained employment that increased their income.

The proposal submitted to the Rules Clearinghouse contains the phrase "based on the advice of their attorney." What is the relevance of this phrase? Also, what result occurs if a client experiences an increase in liquid assets more than 30 days from the date counsel was appointed?

e. In the last paragraph of s. PD 3.039, it appears that the phrase "the court" should be inserted after the word "move," if a motion for withdrawal only will be made in court.