

CHAPTER 7
DEFINITIONS

493—7.1(13B,815) Definitions. As used in these rules, unless the context otherwise requires, the following definitions apply:

“Affidavit of financial status” means a full written disclosure of all income, assets, liabilities, dependents, and other information required to determine if an applicant qualifies for legal assistance by an appointed attorney.

“Appeal” means a proceeding, other than an interlocutory appeal, application for discretionary review, or juvenile court petition on appeal, filed with the Iowa supreme court.

“Applicant” means a person requesting legal assistance by an appointed attorney.

“Appointed attorney” means an attorney appointed by the court to represent an indigent person.

“Assets” means all resources or possessions of the applicant.

“Attorney” means an individual licensed to practice law in Iowa.

“Attorney time” means the total time the attorney appointed to a case spends on in-court time, out-of-court time, and in travel time attributable to that specific case. Attorney time does not include time spent performing clerical activities.

“Case” means all charges or allegations arising from the same transaction or occurrence or contained in the same trial information or indictment in a criminal proceeding or in the same petition in a civil or juvenile proceeding. A probation violation or contempt proceeding is a case separate from the case out of which the violation or contempt arose.

“Child” or *“juvenile”* means a person so defined in Iowa Code chapter 232.

“Claim” means an application or request for payment.

“Claimant” means an appointed attorney or other person seeking reimbursement of costs or fees payable from the indigent defense fund.

“Claims for other professional services” means claims submitted by nonattorneys, including but not limited to investigators, foreign language interpreters, experts, certified shorthand reporters, and persons conducting medical or psychological evaluations.

“Clerical activities” means activities including, but not limited to, opening files; closing files; making photocopies; mailing; opening mail; sending cover letters; transmitting copies of documents to a client, other party or clerk of court; sending a fax; picking up or delivering documents, internal file memos or instructions to staff; scheduling; or billing.

“Contract” means a written agreement between the state public defender and an attorney to provide legal services to an indigent person. The contract may be for the provision of legal services at either the trial court level or the appellate court level.

“County base” means the amount of expenses in juvenile cases for which the county remains liable pursuant to Iowa Code section 232.141(2).

“Court-appointed attorney” means an attorney appointed by the court to represent an indigent person.

“Date of service” means, for adult fee claims, the date of filing of an order indicating that the case was dismissed or the client was acquitted or sentenced, the date of mistrial, the date a warrant was issued for the client, or the date of a court order authorizing the attorney’s withdrawal from a case prior to the date of a dismissal, acquittal, sentencing, mistrial or the issuance of a warrant. If a motion for reconsideration is filed, the date on which the court rules on that motion is the date of service. For interim claims or claims for professional services performed by nonattorneys, “date of service” means the last date on the itemization. For juvenile claims, “date of service” means the date of filing of an order as a result of the dispositional hearing or most recent review hearing, the date on which the client ceased to be a party in the CINA case, the date of a court order authorizing the attorney’s withdrawal from a case that was not dismissed, the date jurisdiction is waived to adult court, the date on which venue is changed, or the date of dismissal. For noncontract appellate claims, “date of service” means the date on which the procedendo issues or the case is dismissed. For contract appellate claims, “date of service” means the date on which the case was dismissed, the date of a court order authorizing the attorney’s withdrawal prior to the filing

of the page-proof brief, the date on which the proof brief was filed, or the date on which the procendo was issued. For claims filed as a result of a notice of action letter, “date of service” means the date of the notice of action letter. For claims filed as a result of a court order after hearing for review of the fee claim, “date of service” means the date of the order.

“*Department*” means the department of inspections and appeals.

“*Expert witness*” or “*expert*” means a person who is retained to render an opinion regarding an issue relevant to a case, whether or not the person actually testifies in court.

“*Family*” or “*household*” means the applicant, applicant’s spouse, including a common-law spouse, and applicant’s children living in the same residence.

“*Fee limitations*” means the attorney fee limitations established by the state public defender for specific classes of cases as specified in rule 493—12.6(13B,815), together with out-of-pocket expenses approved by the state public defender, whether submitted by a public defender, by an appointed attorney pursuant to 493—Chapter 12, or by another professional pursuant to 493—Chapter 13.

“*Fees*” means the consideration paid to an appointed attorney to represent an indigent person.

“*Fiscal year*” means the 12-month period beginning July 1 and ending June 30.

“*Governmental assistance program*” means any public assistance program from which a person is receiving assistance.

“*Income*” means any money received from any source, including but not limited to remuneration for labor, products or services; money received from governmental assistance programs; tax refunds; prize winnings; pensions; investments; and money received from any other source.

“*In-court time*” means time spent by an appointed attorney engaged before a judge or jury including, but not limited to, arraignments, bail hearings, pretrial conferences, pretrial motion hearings, evidentiary hearings, jury selection, trial, plea proceedings, posttrial hearings, and probation violation hearings. In-court time does not include time spent at foster care review board hearings, staffings, family drug court, or any other meetings with other state agencies.

“*Indigent*” means a person entitled to an appointed attorney pursuant to Iowa Code section 815.9.

“*Juvenile proceeding*” means a case in juvenile court wherein the attorney acts as guardian ad litem for the child in interest or provides legal counsel for the child, parent, guardian or custodian.

“*Liabilities*” means all living, business or farming expenses and fixed debts.

“*Local public defender*” means an attorney in the trial division of the state public defender system who performs the duties outlined in Iowa Code section 13B.9.

“*Notice of action letter*” means a letter sent by the state public defender to notify the claimant that the claimant’s fees or expenses were reduced.

“*Out-of-court time*” means time actually spent by the attorney appointed to the case in drafting documents, case preparation, depositions and other discovery, client or witness interviews, investigation, research, brief drafting, conferences or negotiations with opposing counsel or the court, reviewing records, and other productive case-related time that is not in-court time or travel time. Out-of-court time does not include clerical activities.

“*Paralegal time,*” which is payable from the indigent defense fund, means time spent in a Class A felony case at the trial court level in which only one attorney is appointed preparing pleadings and motions, reviewing transcripts, performing legal research, and interviewing witnesses and may include time spent in court assisting the appointed attorney. Paralegal time does not include typing, scheduling, answering the telephone, talking on the telephone except when interviewing witnesses, or other clerical activities or activities that duplicate work performed by the appointed attorney. Paralegal time is not payable in any other cases or in Class A felony cases in which two attorneys are appointed.

“*Person*” means an individual, corporation, limited liability company, government or governmental subdivision or association, or any legal entity.

“*Poverty income guidelines*” means the annual poverty income guidelines established by the U.S. Department of Health and Human Services (DHHS).

“*Rules of criminal procedure*” means the rules prescribed by the supreme court that govern criminal actions and proceedings in all courts in the state.

“*State public defender*” means the state public defender appointed pursuant to Iowa Code chapter 13B and those other persons authorized to act on behalf of the state public defender.

“*State public defender system*” means a system for providing defense services within the state by means of a centrally administered organization having a full-time staff.

“*Timely claim*” means a claim submitted to the state public defender for payment within 45 days of the date of service in a case in which the attorney was appointed after June 30, 2004. A claim not submitted within 45 days of the date of service shall be deemed a timely claim if the delay in submitting the claim was due to the death of the claimant or due to the extended illness or hospitalization of the claimant within 5 days before the expiration of the 45-day limitation. A timely claim returned to the claimant for additional information shall continue to be deemed timely only if resubmitted with the required information within 45 days of being returned by the state public defender.

“*Travel time,*” which is payable from the indigent defense fund, means reasonable and necessary time spent by the attorney for travel under one of the following circumstances:

1. To and from the scene of a crime;
2. To and from the location of a pretrial hearing, trial, or posttrial hearing, if the venue has been changed from the county in which the crime occurred or if the location of the court hearing has been changed to a different county for the convenience of the court;
3. To and from the place of incarceration of a client in a postconviction relief case, criminal appeal, or postconviction relief appeal;
4. To and from the place of detention of a client in a case if the place of detention is other than the county seat of the county in which the action is pending;
5. To and from the location of the placement of a child in a juvenile case if the guardian ad litem is required by statute to visit the placement and the placement is located in Iowa, but outside the county in which the case is pending;
6. To and from the location of the placement of a child in a juvenile case if the guardian ad litem is required by statute and court order to visit the placement and the placement is outside the state of Iowa;
7. To and from a court of appeals or supreme court argument not held in Des Moines;
8. To and from the location where the deposition of an expert witness is being taken; or
9. Other travel for which authorization is obtained from the state public defender.

“*Written*” as used in these rules may include electronically transmitted communication to the extent permitted by rules of the state public defender.

This rule is intended to implement Iowa Code chapters 13B and 815.

[ARC 9293B, IAB 12/29/10, effective 12/7/10]

[Filed 1/31/02, Notice 12/26/01—published 2/20/02, effective 4/1/02]

[Filed emergency 6/4/04—published 6/23/04, effective 7/1/04]

[Filed 11/3/04, Notice 6/23/04—published 11/24/04, effective 12/29/04¹]

[Filed emergency 5/25/05—published 6/22/05, effective 5/25/05]

[Filed 7/27/05, Notice 6/22/05—published 8/17/05, effective 10/15/05]

[Filed 1/13/06, Notice 10/26/05—published 2/1/06, effective 3/8/06]

[Filed emergency 5/23/06—published 6/21/06, effective 7/1/06]

[Filed 8/11/06, Notice 6/21/06—published 8/30/06, effective 10/4/06]

[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]

[Filed 4/3/08, Notice 2/27/08—published 4/23/08, effective 5/28/08]

[Filed Emergency ARC 9293B, IAB 12/29/10, effective 12/7/10]

¹ 12/29/04 effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held 12/14/04.