

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to claims for indigent defense services

The State Public Defender hereby amends Chapter 12, “Claims for Indigent Defense Services,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 13B.4(8).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 815.7(6), 815.7(7) and 815.7(7A) as amended by 2023 Iowa Acts, Senate File 562, and section 815.7A as enacted by 2023 Iowa Acts, Senate File 562.

Purpose and Summary

The purpose of this rulemaking is to remove portions of the current administrative rules that became obsolete, outdated, inconsistent, and incompatible with the new statutory enactments in 2023 Iowa Acts, Senate File 562. The legislation increased the hourly rate for payment of claims from the Indigent Defense Fund for attorney and guardian ad litem fees and allowed payment for associated travel time in situations where payment had not been allowed prior to the legislative change.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 29, 2023, as **ARC 7126C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the State Public Defender on January 3, 2024.

Fiscal Impact

The estimated annual cost of the increase in the hourly rate of the fees for attorneys and guardians ad litem will be approximately \$2,600,000. The estimated annual cost of the increase in travel time allowed will be approximately \$1,500,000.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 28, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind subrule 12.4(1) and adopt the following **new** subrule in lieu thereof:

12.4(1) Unless the attorney has a contract that provides for a different manner or rate of payment, reasonable compensation for the payment of all claims for cases in which the attorney has been appointed shall be calculated on the basis of the hourly rate specified in Iowa Code section 815.7 applicable to the type of case and for the fiscal year during which the appointment was made for attorney or guardian ad litem time, and on the basis of the hourly rate of \$25 per hour for paralegal time to the extent paralegal time is payable under these rules.

ITEM 2. Amend subrule 12.5(4) as follows:

12.5(4) Travel time. Time spent by an attorney or guardian ad litem traveling is only payable at the full hourly rate provided in subrule 12.4(1) when the travel is reasonable and necessary to represent the indigent client and the attorney or guardian ad litem is traveling:

a. to j. No change.

Otherwise, travel time for an attorney or guardian ad litem is only payable at the rate and in the manner provided in Iowa Code section 815.7A as enacted by 2023 Iowa Acts, Senate File 562. For all uncontested hearings, the attorney or guardian ad litem must file an application for a remote hearing to be entitled to travel time. If the court denies the application, the attorney or guardian ad litem must submit a copy of the application and the denial order with the claim for payment of travel time. If the client wishes to have an uncontested hearing in person, and the attorney or guardian ad litem has no other reason to request an in-person hearing other than to be paid for travel time to attend the hearing in person in view of the client's request, the request for hearing shall be sent to the state public defender at claims@spd.state.ia.us. No application is required to be filed for contested hearings, but the travel time must be clearly identified as being for a contested hearing in the description of the travel on the claim. Travel time payable at any hourly rate counts toward the maximum daily hours allowed pursuant to subrule 12.5(1). No amount is payable for travel time at any hourly rate if the time is otherwise being paid at the full hourly rate provided in subrule 12.4(1).

ITEM 3. Reserve **493—Chapter 15**.

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