

17—22.12(231E,633) Service fees.

22.12(1) The state public guardian and local public guardian shall be entitled to reasonable compensation for their public guardianship services as determined by using the following criteria:

- a.* Such compensation shall not exceed actual costs.
- b.* Fees may be adjusted or waived based upon the ability of the consumer to pay, upon whether financial hardship to the consumer would result, or upon a finding that collection of such fees is not economically feasible.
- c.* Fees shall be as established in rule 17—22.13(231E,633). The state office may collect a fee from the estate of a deceased consumer.

22.12(2) Fees shall not be assessed on income or support derived from Medicaid. Income or support derived from Social Security and other federal benefits shall be subject to assessment unless the funds have been expressly designated for another purpose. Written notice shall be given to the consumer prior to the collection of fees. The written notice shall describe the type and amount of fees assessed.

22.12(3) Case-opening fees. All consumers, except those receiving representative payee services, with liquid assets valued at \$6,500 or more on the date of the public guardian's appointment shall be assessed a one-time case-opening fee for establishment of the case by the local office. Case-opening fees shall be assessed for each appointment, including a reappointment more than six months after the termination of a prior appointment as public guardian for the same consumer which involves similar powers and duties.

22.12(4) Monthly fees.

a. A monthly fee for public guardianship services other than the sale or management of real or personal property shall be assessed against all consumers with liquid assets valued at \$6,500 or more on any one day during the month. Monthly fees shall be collected by the state office on a pro rata basis on the first of each month. A monthly fee shall be assessed when a public guardian is appointed to guardianship, conservatorship, or representative payee duties.

b. In all cases where the state office serves as representative payee under programs administered by the Social Security Administration, Railroad Retirement Board, or similar programs, the monthly fee for providing representative payee services shall be as established by the federal governmental agency which appoints the representative payee.

22.12(5) Additional fees.

a. Fees for the sale of a consumer's real or personal property shall be in addition to case-opening and monthly service fees.

b. Fees for the sale of real or personal property shall be 10 percent of the net proceeds resulting from the sale of the property and shall be paid at the time the sale is completed.

c. Such further allowances as are just and reasonable may be made by the court to public guardians for actual, necessary and extraordinary expenses and services.

22.12(6) Preparation and filing of state or federal income tax returns. Fees for the preparation and filing of a consumer's state or federal income tax return may be assessed at the time of filing of a return for each tax year in which a return is filed.

22.12(7) Settlement of a personal injury cause of action. Fees for the settlement of a consumer's personal injury cause of action may be collected upon court approval of the settlement.

22.12(8) Establishment of a recognized trust. Fees for establishing a recognized trust for the purpose of conserving or protecting a consumer's estate and for petitioning the court for the approval of the trust may be collected at the time of court approval of establishment of the trust.

22.12(9) Extraordinary expenses and services. The state office may collect fees pursuant to court order for other actual, necessary and extraordinary expenses or services. Necessary and extraordinary services shall be construed to also include services in connection with real estate, tax matters, and litigated matters.

22.12(10) Impact on creditors. The state office may collect fees even when claims of creditors of the consumer may be compromised.

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