

CHAPTER PD 8 DISCOVERY PAYMENTS

PD 8.01 Scope of chapter on discovery payments. (1) In this chapter, “discovery materials” means the materials and information that a district attorney or other prosecuting attorney is required to disclose by ss. 971.23 and 980.036, Stats., or by the constitution and laws of this state or the United States.

(2) This chapter applies to all discovery materials provided to any attorney appointed by the state public defender, staff or private, whether or not the attorney has filed a demand for discovery or made any other formal request for discovery materials.

PD 8.02 Maximum rates for copies of discovery materials. (1)

The following rates are the maximum fees that the state public defender may pay for copies of discovery materials in any case or proceeding in which the state public defender appoints counsel:

- (a) For paper copies of written or printed materials, \$0.20 per single-sided page, or \$0.35 per double-sided page.
- (b) For copies of digital videodiscs (DVDs), digital audio recordings, and compact discs (CDs), \$5.00 per disc.
- (c) For copies of photographs, \$0.50 per print for a print that is 5x7 inches or less, and \$1.00 per print for all others.
- (d) For copies of videocassette recorder (VCR) tapes and audio cassette tapes, \$5.00 per recording.

(2) The state public defender may not pay a fee for ancillary expenses related to the provision of discovery materials, including fees for the following:

- (a) Labor costs, postage, shipping, equipment costs, or other costs that would result in a fee exceeding the amount specified in sub. (1).
- (b) Compiling, preparing, reviewing, or transmitting paper or electronic documents.
- (c) Duplicate items, unless specifically requested by the attorney appointed by the state public defender.
- (d) Items that the state public defender has advised the provider not to include within discovery materials.

(3) Except as provided in sub. (2), the state public defender may establish temporary maximum fees for copies of discovery materials in formats not specified in sub. (1). The state public defender shall report any fees established under this subsection to the board, which may consider promulgating rules to revise the rates in sub. (1).

PD 8.03 Temporary reduction or suspension of payment when appropriation for discovery is insufficient. (1)

When the appropriation under s. 20.550 (1) (f), Stats., that includes funds for payments under this chapter is insufficient to pay for copies of all the discovery materials that the state public defender anticipates will be required during the biennial budget period, the state public defender may temporarily reduce or suspend payments.

(2) The state public defender shall notify the affected discovery provider of the nature and anticipated duration of any reduction or suspension of payment under sub. (1).

(3) If the appropriation specified in sub. (1) was insufficient in two consecutive fiscal years to pay for all discovery materials that the state public defender required, the state public defender shall report the insufficiency to the board, which may consider promulgating rules to revise the rates in s. PD 8.02.

SECTION 2. INITIAL APPLICABILITY.

This rule first applies to discovery material charges that are submitted to the public defender for payment on the effective date of this rule.

SECTION 3. EFFECTIVE DATE.

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

