

Proposed Rule

No. 664, eff. 6-19-11.

PD 6.025 Determination of ability to pay. (1) The state public defender shall determine whether persons subject to payment for legal representation have the ability to pay all, or part of, the costs of representation. A person has the ability to pay some amount to these costs if the person has gross income in excess of the amount specified in 42 U.S.C. s. 9902(2) (2011) or has assets treated under s. PD 3.03(2) as available to pay the costs of legal representation with income in excess of the amount specified in s. 49.001 (5), Stats., or assets available to pay the costs of legal representation under s. PD 3.03 (2) has the ability to pay some amount toward these costs. The state public defender may defer the determination of ability to pay until after the time period for payment of the optional discount amount specified in s. PD 6.02 has expired.

(2) The state public defender may determine that a person has the ability to pay under any of the following circumstances:

(a) The person has gross income exceeding 115% of the amount specified in 42 U.S.C. s. 9902(2)(2011) or has assets treated under s. PD 3.03(2) as available to pay the costs of legal representation. ~~is determined to have income in excess of the amount specified in s. 49.001 (5), Stats., or assets available to pay the costs of legal representation under s. PD 3.03 (2).~~

(b) The person does not notify the state public defender by the date specified in the notice sent to them under s. PD 6.015 that they are unable to pay the specified periodic payments.

(c) The person does not comply with a request of the state public defender for information necessary to verify their financial circumstances.

(3) The state public defender may periodically review a person's ability to pay and may rely upon information obtained from employment and tax records to determine ability to pay. When a person originally unable to pay for legal representation is later determined to have the ability to pay, the state public defender shall send notice of a periodic payment schedule to the person's last known address.

(4) This section does not apply to persons subject to reimbursement under s. PD 6.05 or 6.055.

History: Emerg. cr. eff. 11-20-95; cr. Register, March, 1996, No. 483, eff. 4-1-96; CR 04-038: r. (2) (a), renum. (2) (b) to (d) to be (2) (a) to (c) Register August 2005 No. 596, eff. 9-1-05; CR 09-068: cr. (4) Register May 2010 No. 653, eff. 6-1-10; CR 10-134: am (1), (2) (a), (3) Register April 2011 No. 664, eff. 6-19-11; correction in (2) (a) made under s. 13.92 (4) (b) 4., Stats., Register April 2011 No. 664.