

Clearinghouse Rule 97-124

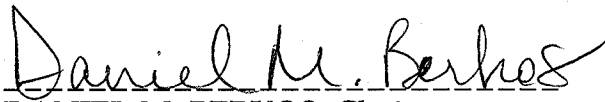
STATE OF WISCONSIN

OFFICE OF THE STATE PUBLIC DEFENDER

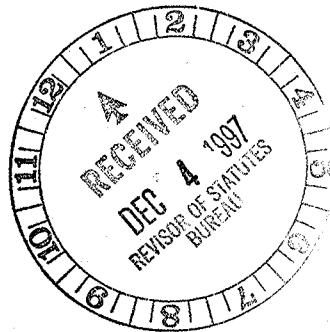
I, Daniel M. Berkos, Chair of the State Public Defender Board and custodian of the official records, certify that the annexed rule related to the calculation of indigency was duly approved and adopted by this board on September 9, 1997.

I certify that this copy has been compared by me with the original on file in this Office and that the same is a true copy thereof, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the city of Madison, state of Wisconsin, this 3rd day of December, 1997.



DANIEL M. BERKOS, Chair
State Public Defender Board



97-124
2-1-98

**PROPOSED ORDER OF THE STATE PUBLIC DEFENDER BOARD
AMENDING A RULE**

The State Public Defender Board proposes an order to amend PD 3.038 (2), relating to the calculation of indigency.

Analysis

The following rule establishes the criteria to be used when determining whether a Wisconsin works (W-2) participant qualifies for public defender representation. Specifically, PD 3.038 (2) is amended to state that if a person's only income is from a W-2 employment position under ss. 49.148 (1) (a), (b), or (c), Stats., or from the W-2 benefits provided under s. 49.148 (1m), Stats., that person shall be determined indigent. It should be noted that if a W-2 participant is engaged in unsubsidized employment, as defined in s. 49.147 (1), Stats., eligibility would be governed by the criteria set forth in ss. PD 3.02, PD 3.03, and PD 3.038 (1).

In addition, the references to AFDC, relief of needy Indian persons, and general relief have been deleted from the rule and a reference to relief as defined in s. 49.01 (3), Stats., has been added to the rule.

Finally, it should be noted that although the reference to AFDC is deleted under the proposed rule, persons who continue to receive AFDC until March 1, 1998, as provided under s. 49.19 (20), Stats., will be determined indigent pursuant to the rule's provision "any other similar public needs-based financial assistance program."

Statutory authority: ss. 977.02 (2m) and (3), Stats.
Statute interpreted: s. 977.07, Stats.

SECTION 1. PD 3.038 (2) is amended to read:

PD 3.038 (2) If a person's only income is aid to families with dependent children under s. 49.19 (11) (a) 1., Stats., relief of needy Indian persons under s. 49.046, Stats., from one or more of the following sources, that person shall be determined indigent: a Wisconsin works employment position under s. 49.148 (1) (a), (b), or (c), Stats., Wisconsin works benefits under s. 49.148 (1m), Stats., supplemental security income for the aged, blind, and disabled under 42 USC 1381-1383c, relief as defined in s. 49.01 (3), Stats., or a any other similar federal or state public needs-based financial assistance program, or general relief as defined in s. 49.01 (5m), Stats., that person shall be determined indigent.

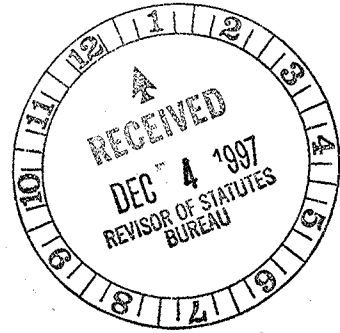
Effective Date

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

Dated: 12/3/97

Wisconsin State Public Defender Board

By: Daniel M. Berkos
DANIEL M. BERKOS, Chair





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December 3, 1997

Gary Poulson
Revisor of Statutes Bureau
131 West Wilson Street, Room 800
Madison, WI 53703-3233

Re: PD 3.038 (2)

Dear Gary:

Enclosed please find a certified copy of an administrative rule recently promulgated by the State Public Defender Board.

An extra copy of the rule is enclosed for printing purposes.

Thank you.

Sincerely,

Gina Pruski
Deputy Legal Counsel

Enclosure

