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Summary of Notable Revisions to SPD Claims Rules 7/14/14

The State Public Defender has adopted amendments to its administrative rules that will be effective for all claims submitted after **July 30, 2014**. The full text of the amendments, as well as the complete revised version of the rules is available on the SPD website at: <http://spd.iowa.gov/adminrules>. This summary highlights some of the most notable revisions, but the rules include a complete reorganization and stylistic revisions to improve clarity, simplicity, and precision. All contract attorneys are advised to review the full text of the rules before they become effective on July 30, 2014.

Submitting Fee Claims

Itemizations Detail: In addition to the previous requirements (date, amount of time, description, designation of in-court/out-of-court/paralegal/travel time), all itemizations must:

- **Specify whenever another attorney performs work**, including the name of the attorney or initials if an explanation is provided as to the full name for each set of initials.
- **Separately itemize all expenses** (e.g., copying, printing, postage, fax, telephone), specifying the date that each expense was incurred, and if not clear from the itemization, the purpose of the expense.
- **Mileage expense itemizations** must specify the date of the travel, the origination and designation locations, and if not otherwise clear from the itemization, the purpose of the travel.

See Rule 12.2(1)(f); Rule 12.8(1).

Itemization Time Rounding/Aggregation: All itemizations shall report time in tenths of an hour. Time must be rounded to the nearest tenth of an hour. The time spent on each activity must be separately itemized, except that one or more activities on the same day, each taking less than 0.1 hours, must be aggregated together with other activities so that the aggregate amount billed is at least 0.1 hours. If an attorney performs only a single activity taking less than 0.1 hours for a client on a day, the attorney may bill 0.1 hours regardless of the precise length of time spent on the activity. If an attorney performs multiple related activities on the same day, such as multiple e-mail or telephone exchanges, the activities must be aggregated together if separately itemizing the activities would result in claiming more time than the attorney actually spent performing the activities. See Rule 12.2(1)(f)(1).

Include Court Order Documenting Date of Service: All claims must include a copy of the disposition order (e.g., the sentencing order), the order granting a motion to withdraw prior to disposition, procedendo, or other court order documenting the “date of service” for the claim. See Rule 12.2(1)(e).

45-Day / Date of Service Rule: The definition specifying when claims must be submitted has been clarified and several new, expanded exceptions to the 45-day rule for timely submission of claims have been added. Exceptions now include the death or certain serious illness, injury, or other medical condition of the attorney or immediate family members cared for by the attorney. The rule also set deadlines for submitting claims after such occurrences. *See* Rule 12.2(3).

Billing Practice Clarifications

Maximum Hours: Attorneys are prohibited from billing more than 16 hours a day in the aggregate on all indigent defense cases. Attorneys are prohibited from billing 12-16 hours per day except in limited circumstances and with a written explanation. *See* Rule 12.5(1)

Mileage Splitting: Mileage expense must be split among all clients for whom the mileage was travelled and must not be billed in full for every client. *See* Rule 12.8(1)(a).

Billing Must Be Actual Time: All attorney time submitted on itemization must be the actual time worked by the attorney. Estimated and standardized billing is prohibited. *See* rule 12.5(2).

Travel Time: The circumstances when travel time is payable have been clarified and expanded to include, among other things, travel to all appellate oral arguments and travel to family team meetings occurring outside the county of the case so long as the court approves of the meeting location. *See* Rule 12.5(4).

Substitute Counsel: Substitute counsel may generally only be used in limited circumstances, including court hearings and family team meetings with which the appointed attorney has a legitimate scheduling conflict and necessary out-of-court preparation for such hearings or meetings. Substitute counsel may not be used for any trial, and must have a SPD contract or the prior written consent of SPD. *See* Rule 12.5(5).

Other Revisions

Mileage Rate Increase: The mileage rate increases from \$0.35 to \$0.39 to be consistent with the state employee mileage rate. The new rate will be paid for claims submitted after July 30, 2014, regardless when the travel occurred. But attorneys must claim the new rate – the State cannot pay a vendor more than the amount the vendor claims. *See* Rule 12.8(1)(a).

Appellate Claims: All appellate claims now require a full itemization and are paid at the \$60 per hour rate. There is no fee limitation for appellate claims. And there is no “voluntary flat rate” where an itemization is not required. *See* Rule 12.4(4); Rule 12.6(3).

Change-of-Employment: Attorneys may no longer submit an interim claim merely because the attorney is changing law firms. SPD will send payment on an attorney’s claim to whatever entity the attorney directs, but it is the attorney’s responsibility to ensure that any division of funds between firms occurs appropriately. *See* Rule 12.3(5)

Termination for Improper Billing Practices: If an attorney’s contract is terminated for improper billing practices, attorneys will only be paid on any pending or future claims if attorney resubmits with independent, written documentation originating from a source other than the attorney that supports all time billed. *See* Rule 12.2(8); Rule 11.7(2)(c).