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 rules relating to the determination of financial eligibility for assignment of counsel were duly approved and adopted by this board on December 27, 1989.

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 29th day of June, 1990.

DANIEL M. BERKOS
Chair, State Public Defender Board

9-1-90

ORDER OF THE STATE PUBLIC DEFENDER BOARD CREATING A RULE

An order to amend s. SPD 3.03(2) and (4), relating to the determination of financial eligibility for assignment of counsel by the state public defender.

<u>Analysis</u>

These proposed amendments both relate to the formula used by the state public defender for determining indigency of potential clients. The first amendment codifies current agency policy by clarifying that income derived from SSI benefits is considered to be an essential expense when computing "the amount required to provide the necessities of life" under the formula. The second amendment changes the variable used in the formula which calculates the number of months a potential client's case is likely to be pending in the agency. Under the current rule, the average time for a felony case is established at 8 months, and the average time for all other types of cases handled by the agency is established at 4 months. The proposed second amendment would establish an average time of 2 months for civil commitment cases, more accurately reflecting the actual pendency of civil commitment cases with the agency.

Statutory authority: s. 977.02, Stats.

Statute interpreted: s. 977.02(3), Stats.

SECTION 1

SPD 3.03(2) is amended to read:

SPD 3.03(2) The "amount required to provide the necessities of life" means the payment amount specified in s. 49.19)11)(a)1, Stats., plus other specified, emergency, or essential costs. <u>Among other costs, the amount paid to a person under a state and federal grant of supplemental security income for the aged, blind, and disabled program pursuant to 42 USC 1381 to 1383c is considered an essential cost.</u>

SECTION 2

SPD 3.03(4) is amended to read:

SPD 3.03(4): For purposes of determining a person's eligibility for the assignment of publicly compensated counsel, felony and appellate cases are pending for 8 months, <u>cases under ch. 51, Stats., for 2 months,</u> and all other cases for 4 months.

Thus rule shall take effect on the first day of the month commencing after the date of publication, pursuant to s. 227.22(2) (intro.), Stats.

Dated: 6/29/90

Wisconsin State Public Defender Board

By: _____
DANIEL M. BERKOS, Chair
State Public Defender Board

THE STATE OF WISCONSIN
STATE PUBLIC DEFENDER

131 West Wilson Street, P.O. Box 7923
Madison, Wisconsin 53707
(608) 266-0087

June 28, 1990

Gary Poulson
Office of the Revisor of Statutes
30 W. Mifflin Street - Room 702
Madison, Wisconsin   53703

RE: Clearinghouse rule 90-34

Dear Mr. Poulson:

Attached please find a certified copy of Clearinghouse rule 90-34 for promulgation. I have also attached an extra copy for printing of the rule. It is my understanding that this rule will be published in the mid-August register and will become effective on September 1, 1990. As I will be on vacation in July, please notify Eileen Hirsch immediately at 266-9449 if this is not the case.

Thank you.

Sincerely,

Evelyn Mazack
Assistant State Public Defender