**Section 1220.105 Appointment of Counsel**

a) A charging party may file a request for appointment of counsel simultaneously with or after filing a charge. The request shall be on a form developed by the Board. It shall be accompanied by an affidavit attesting to the charging party's *inability to pay or inability to otherwise provide for adequate representation.* (Section 5(k) of the Act) It shall also be accompanied by affidavits, documents or other evidence supporting the charge.

b) A charging party shall be deemed unable to pay or provide for adequate representation if the party's "Adjusted Income" is less than the amount set forth in Table A to this Part for a "Family Unit" of the applicable size, and if this person is not entitled to representation from a labor organization (or such representation would be inappropriate) or under the provisions of a prepaid legal services plan or similar arrangement. As an example, instances when representation by a labor organization would be inappropriate include when an individual files charges against a labor organization.

c) For purposes of this Section, "Adjusted Income" refers to all gross income available to the charging party for the prior year from wages, pensions, annuities, insurance or public assistance benefits, interest and dividends, and other such sources, including liquid assets such as savings and checking accounts, stocks, bonds and similar investments, less the following deductions for the prior year:

1) Child care and court-ordered child support payments;

2) That portion of educational and medical expenses which exceeds 5 percent of total gross income;

3) Unreimbursed expenses of obtaining and maintaining employment; and

4) An amount equivalent to 20 percent of wages earned, to approximate withholding for taxes and social security and the like.

d) For purposes of this Section, "Family Unit" means the charging party and all other persons related to the charging party by blood, marriage or adoption who reside in the charging party's household and are dependent upon the charging party for at least one half of their support.

e) If the Board or its designated representative determines that the charging party is unable to pay or is otherwise unable to provide for adequate representation, and that the charge is not clearly without merit, the charging party shall select counsel from a list of attorneys maintained by the Board.

f) Counsel selected by the charging party shall certify to the Board:

1) That they are licensed to practice law in Illinois under the rules of the Illinois Supreme Court.

2) That they have previous experience as the representative of parties in the trial or hearing of contested cases. An attorney without trial experience, including a law student certified to practice under Rule 711 of the Illinois Supreme Court, shall satisfy this requirement if actively supervised and accompanied at hearing by an attorney with previous trial experience, in which case the supervising attorney shall make the certification.

3) That they accept appointment in return for compensation from the Board at the rate of $75 per hour ($30 per hour for the time of law students and paralegals) plus costs, i.e., copying documents, subpoena fees, and subject to a maximum compensation limit of $5000 in any single cause. The maximum limit of $5000 may be increased in a particular case upon application to the Board if the circumstances of the case, including the number and complexity of the issues, demand the investment of time and expenses exceeding the limitation.

4) That they will maintain contemporaneous, careful records of time and expenses devoted to the case and will supply copies or summaries to the Board, together with bills for services rendered, at least monthly for each month in which time or costs are accrued.

g) Payment for personal services at the hourly rate is due upon completion of the Board proceedings in the cause. Payment of costs up to a total of $500 are payable on a monthly basis for the month in which the costs are incurred. Costs totalling more than $500 are payable at the completion of the proceedings before the Board and may be incurred only with prior approval of the Board, e.g., in instances in which issues presented are numerous or call for numerous witnesses.

h) An attorney appointed by the Board to represent a charging party pursuant to this Section shall not withdraw from such employment without approval of the Board or its Administrative Law Judge.

(Source: Renumbered from Section 1220.30 and amended at 27 Ill. Reg. 7436, effective May 1, 2003.