

RULES GOVERNING BILLING

Effective February 1, 2012

The court shall determine the amount of compensation an appointed attorney will receive based upon the rates of compensation as determined from time to time by the Franklin County Board of Commissioners. **By accepting court appointments, attorneys agree to be bound by the rules set forth below.**

(1) Prescribed Forms

Appointed attorneys and guardians ad litem seeking to be paid for fees and/or expenses shall correctly complete the forms prescribed in the Ohio Public Defender's STANDARDS AND GUIDELINES FOR APPOINTED COUNSEL REIMBURSEMENT, current edition. Appointed counsel shall use the software program provided by the Ohio Public Defender when submitting fee applications. Appointed counsel shall submit the original fee application, a time stamped entry appointing the attorney, a time stamped copy of the dispositional entry, and the financial disclosure affidavit.

Appointed attorneys and guardians ad litem shall obtain the signature of the indigent client, or parent / guardian / custodian when applicable, on the financial disclosure / affidavit of indigency form required by the Ohio Public Defender. If the indigent client or parent / guardian / custodian is unavailable to sign the form, the appointed counsel / guardian ad litem shall obtain the signature from the assigned judge or magistrate, certifying the indigency of the defendant.

(2) Expenses

Necessary and reasonable expenses may be allowed for such items as expert witness fees, polygraph costs, long distance phone calls and photocopying. Attorneys seeking reimbursement for expenses must provide receipts for all expenses in excess of one dollar. Court approval is not required for expenses up to \$100.00. However, attorneys shall not fractionalize expenses to circumvent the \$100.00 cap. Prior approval by the Assigned Judge is required before incurring expenses exceeding \$100.00. When determining whether to grant expenses the Assigned Judge shall consider the value added to the proper representation at trial, and whether there is another available alternative which would fulfill the same function at a lesser cost.

(3) Non-reimbursable expenses

Attorneys and guardians ad litem will not be reimbursed for the following expenses:

- mileage and parking incurred between the attorney's home and office, the attorney's home and court, or the attorney's office and court
- any fixed office overhead expenses
- Court transcripts or depositions, except as provided by law
- lodging, meals, mileage, and travel by common carrier for the client, the client's family, the client's friends, or for the attorney's employees.

(4) Timely Submission of Fee Application

Appointed counsel and guardians ad litem shall file a fee application within 30 days of the date of the journal entry disposing of the complaint or motion, or date of the journal entry approving the case plan, whichever is later. The court may withhold payment to appointed counsel and guardians ad litem until all necessary forms pertaining to the case are correctly completed and filed. Failure to file a fee application within said thirty days will result in a fifty percent reduction in the fees and expenses paid to counsel. Fee and expense applications submitted beyond sixty days of the date of the journal entry disposing of the complaint or motion, or date of the journal entry approving the case plan will not be paid.

Defective fee affidavits will be returned to the court appointed counsel for correction. The court will attach its correction form to the front of the defective fee application and return the defective fee application to the attorney for correction. The appointed attorney shall correct the deficiency and submit the corrected fee application to the court appointed counsel billing clerk within ten days. Defective fee applications which are corrected within ten days will be reimbursed at the same rate as if they were correct on the date first submitted.

(5) Periodic Billing

Periodic bills may be submitted prior to the case termination date only when appointed counsel has incurred a reimbursable expense, has reached the case fee cap, the case has not been disposed of within a twelve month period from the date of appointment, or a warrant or capias has been issued.

A fee application may be submitted for a payment when a warrant or capias is issued. The box for periodic billing must be checked (✓) and the disposition should indicate, "warrant". The original appointment continues and a new fee cap will not apply once the client is taken into custody.

(6) Companion Cases and Multiple Clients

Appointed counsel is entitled to one fee when one complete proceeding or trial is held for a single client on charges or counts arising out of a single incident or a series of incidents that have been consolidated. In juvenile court cases involving multiple parties, regardless of whether the attorney represented the children, parents, or other parties in an abuse, dependency, neglect, custody, non-support contempt, or visitation contempt action, the attorney shall list all children and their respective case numbers on one Motion, Entry, and Certification form. The most recent case number shall be listed first on the Motion, Entry, and Certification form.

An attorney representing multiple clients who are charged with conduct arising out of a single incident shall submit only one Motion, Entry, and Certification form for the case. The attorney shall list all clients and their respective case numbers on one Motion, Entry, and Certification form.

(7) Multiple Charges and Counts

When a single client is charged with multiple offenses as separate counts of one complaint, or multiple offenses in more than one case number, and the counts/complaints are assigned to the same Judge and Magistrate, with much of the work performed and the cases disposed

simultaneously, only one Motion, Entry, and Certification form shall be submitted with all cases listed. The maximum fee shall be based on the highest degree of offense charged. The case number with the highest degree of offense shall be listed first on the Motion, Entry and Certification form.

(8) Held Open Unruly and Delinquent Cases

If disposition is held open for a specific time period without scheduling a review hearing, the case is deemed disposed for billing purposes and the fee application must be submitted for payment. If disposition is held open and a review hearing is scheduled, the case remains open and a fee application cannot be submitted until final disposition is entered.

(9) Contempt Cases

If an indigent defendant is found guilty of contempt and the matter is continued to a date certain to review compliance with the purge order, the appointment is terminated upon the filing of the entry determining whether or not the person is guilty of contempt. The appointed attorney shall file a fee application within 30 days of the date of the journal entry disposing of the motion pursuant to paragraph (4) of these billing rules.

(10) Abuse/Neglect/Dependency Cases

Appointed attorneys and guardians ad litem shall ~~submit~~ a fee application following the dispositional hearing as required by paragraph (4) of these rules. Appointed attorneys and guardians ad litem shall submit an additional fee application for each subsequent annual review hearing. Motion hearings, review hearings, status conferences and drug court appearances do not constitute an annual review hearing. A new appointment is not needed for each annual review hearing.

(11) Abuse/Neglect/Dependency/Custody Cases With No Further FCCS Or Other State Involvement

Once legal custody has been awarded to a party other than FCCS and a subsequent motion regarding custody issues is filed, and the state is no longer an interested party, the parties on the case are no longer entitled to appointed counsel and the appointment is terminated once such a custody order is entered. The appointed attorney shall file a fee application within 30 days of the date of the journal entry disposing of the pursuant to paragraph (4) of these billing rules. However, the child remains eligible for an appointed guardian ad litem pursuant to R.C. 2151.281 or Juv. R. 4. Guardians ad litem shall submit a fee application following the dispositional hearing on the initial motion filed for change of custody, visitation, etc. as required by paragraph (4) of these rules. Thereafter, guardians ad litem shall submit a fee application for additional services but only one application will be accepted in any twelve month period. The twelve month time period would begin with the filing date of the first motion. A separate fee cap is not applied to each motion filed, but rather is based upon the twelve month period.

(12) Custody On Unruly And Delinquency Cases

If custody is awarded as part of the unruly/delinquent case, the fee cap will be based upon the unruly/delinquency matter and is not based on other underlying motion(s). These types of cases

are not treated the same as AND cases with multiple caps. Appointed attorneys and guardians ad litem shall submit a fee application upon the disposition of the delinquency as required by paragraph (4) of these rules. Any fee applications submitted thereafter, for annual reviews, termination of custody, etc. must be submitted along with a motion for extraordinary fees.

Once legal custody has been awarded to a party other than FCCS and a subsequent motion regarding custody issues is filed, and the state is no longer an interested party, the parties on the case are no longer entitled to appointed counsel. However, the child remains eligible for an appointed guardian ad litem pursuant to R.C. 2151.281 or Juv. R. 4.

(13) Itemization of Attorney Hours/Time Logs

Each motion, entry and certification form shall reflect the time the appointed attorney or guardian ad litem expended in court and out of court in tenth of an hour (6 minute) increments.

Attorneys are required to prepare and maintain time records for each appointed case showing the date of service, nature of services rendered and hours worked. Except as provided in section 14 below, these records should not be submitted with the billing, but may be requested from the attorney in the event that the court or the Ohio Public Defender has questions about the billing. The suggested format for maintaining such time is on form OPD-1028: *Attorney Time Log*. However, attorneys may use their own forms or billing programs so long as equivalent data can be produced, if requested. Such records should be kept by the attorney for a minimum of five years from the date the related Motion, Entry and Certification form was submitted to the court.

(14) Attorney Withdrawal / Removal

An appointed attorney or guardian ad litem shall submit a fee application within 30 days of being removed or granted leave to withdraw from a case. A copy of the withdrawal/removal entry shall be attached to the fee application. For fee application purposes, the withdrawal / removal entry serves as the final disposition.

(15) Underpayment / Overpayment of Reimbursement

If a court appointed attorney receives a reimbursement payment which is less than or greater than the amount that should have been paid to the attorney as a result of errors, omissions, or other factors, the court shall either make a supplementary payment to or seek reimbursement from the attorney.

(16) Extraordinary Fees

Requests for extraordinary fees must be made by written motion submitted with supporting information, including all regular billing documents, within 30 days of the date of the journal entry disposing of the complaint or motion, or date of the journal entry approving the case plan, whichever is later. Requests for extraordinary fees will not be considered prior to disposition. If the court receives requests for extraordinary fees late, payment to the attorney will be reduced by the reimbursement rate currently being used by the Ohio Public Defender. All requests for extraordinary fees shall be submitted within sixty days of the date of the journal entry disposing

of the complaint or motion, or date of the journal entry approving the case plan, whichever is later. Applications submitted beyond sixty days will not be paid.

An award for extraordinary fees will be made only with the approval of a majority of all the Judges of the Domestic Relations Court. Extraordinary fees will be granted only in complex cases involving multiple counts dealing with multiple separate incidents which require an extraordinary amount of trial preparation time, cases that involve unique legal issues, cases that require multiple types of hearings (e.g., motion to relinquish jurisdiction denied and SYO subsequently filed), or cases requiring extended days of trial. Motions for extraordinary fees must be accompanied by an itemized time log clearly reflecting the date of service, nature of services rendered and hours worked.

(Amended Effective 10/25/2010; 2/1/2012)