
94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES**Chapter 301: FEE SCHEDULE AND ADMINISTRATIVE PROCEDURES FOR PAYMENT OF COMMISSION ASSIGNED COUNSEL**

Summary: This Chapter establishes a fee schedule and administrative procedures for payment of Commission assigned counsel. The Chapter sets a standard hourly rate and maximum fee amounts for specific case types. The Chapter also establishes rules for the payment of mileage and other expenses that are eligible for reimbursement by the Commission. Finally, this Chapter requires that, unless an attorney has received prior authorization to do otherwise, all vouchers must be submitted using the MCILS electronic case management system.

SECTION 1. DEFINITIONS

1. **Attorney.** "Attorney" means an attorney licensed to practice law in the State of Maine.
2. **MCILS or Commission.** "MCILS" or "Commission" means the Commissioners of the Maine Commission on Indigent Legal Services.
3. **Executive Director.** "Executive Director" means the Executive Director of MCILS or the Executive Director's decision making designee.

SECTION 2. HOURLY RATE OF PAYMENT

Effective July 1, 2015:

A rate of Sixty Dollars (\$60.00) per hour is authorized for time spent on an assigned case.

SECTION 3. EXPENSES

1. **Routine Office Expenses.** Routine Office expenses are considered to be included in the hourly rate. Routine office expenses, including but not limited to postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities, secretarial services, routine copying (under 100 pages), local phone calls, parking (except as stated below), and office supplies, etc., will not be reimbursed.
2. **Itemized Non-Routine Expenses.** Itemized non-routine expenses, such as discovery from the State or other agency, long distance calls (only if billed for long distance calls by your phone carrier), collect phone calls, extensive copying (over 100 pages), printing/copying/ binding of legal appeal brief(s), relevant in-state mileage (as outlined below), tolls (as outlined below), and fees paid to third parties. Necessary parking fees associated with multi-day trials and hearings will be reimbursed, but must be approved in advance by the Executive Director.
3. **Travel Reimbursement.** Mileage reimbursement shall not exceed the applicable State rate. Mileage reimbursement will be paid for travel to and from courts other than an attorney's home district and superior court. Mileage reimbursement will not be paid for

travel to and from an attorney's home district and superior courts. Tolls will be reimbursed, except that tolls will not be reimbursed for travel to and from attorney's home district and superior court. All out-of-state travel or any overnight travel must be approved by the MCILS in writing prior to incurring the expense. Use of the telephone, video equipment, and email in lieu of travel is encouraged as appropriate.

4. **Itemization of Claims.** Claims for all expenses must be itemized.
5. **Discovery Materials.** The MCILS will reimburse only for one set of discovery materials. If counsel is permitted to withdraw, appropriate copies of discovery materials must be forwarded to new counsel forthwith.
6. **Expert and Investigator Expenses.** Other non-routine expenses for payment to third parties, which historically required preapproval by the Court before July 1, 2010 (e.g., investigators, interpreters, medical and psychological experts, testing, depositions, etc.) are required to be approved in advance by MCILS. Funds for third-party services will be provided by the MCILS only upon written request and a sufficient demonstration of reasonableness, relevancy, and need in accordance with the MCILS rules and procedures governing requests for funds for experts and investigators. See Chapter 302 Procedures Regarding Funds for Experts and Investigators.
7. **Witness, Subpoena, and Service Fees.** In criminal and juvenile cases, witness, subpoena, and service fees will be reimbursed only pursuant to M.R. Crim. P. 17(b). It is unnecessary for counsel to advance these costs, and they shall not be included as a voucher expense. Fees for service of process by persons other than the sheriff shall not exceed those allowed by 30-A M.R.S. § 421. The same procedure shall be followed in civil cases.

SECTION 4. MAXIMUM FEES

Vouchers submitted for amounts greater than the applicable maximum fees outlined in this section will not be approved for payment, except as approved by the Executive Director:

1. **Trial Court Criminal Fees**
 - A. Maximum fees, excluding any itemized expenses, are set in accordance with this subsection. Counsel must provide MCILS with written justification for any voucher that exceeds the maximum fee limit.

Effective July 1, 2015:

- 1) **Murder.** Fee to be set by the Executive Director on a case by case basis.
- 2) **Class A.** \$3,000
- 3) **Class B and C (against person).** \$2,250
- 4) **Class B and C (against property).** \$1,500

- 5) **Class D and E (Superior or Unified Criminal Court).** \$750
 - 6) **Class D and E (District Court).** \$540
 - 7) **Post-Conviction Review.** \$1,200
 - 8) **Probation Revocation.** \$540
 - 9) **Miscellaneous (i.e. witness representation on 5th Amendment grounds, etc.)** \$540
 - 10) **Juvenile.** \$540
- B. In cases involving multiple counts against a single defendant, the maximum fee shall be that which applies to the most serious count. In cases where a defendant is charged with a number of unrelated offenses, Counsel is expected to coordinate and consolidate services as much as possible.
- C. Criminal and juvenile cases will include all proceedings through disposition as defined in Section 5.1.A below. Any subsequent proceedings, such as probation revocation, will require new application and appointment.
- D. When doing so will not adversely affect the attorney-client relationship, Commission-assigned counsel are urged to limit travel and waiting time by cooperating with each other to stand in at routine, non-dispositive matters by having one attorney appear at such things as arraignments and routine non-testimonial motions, instead of having all Commission-assigned counsel in an area appear.
- E. Upon written request to MCILS, assistant counsel may be appointed in a murder case or other complicated cases:
- 1) the duties of each attorney must be clearly and specifically defined and counsel must avoid unnecessary duplication of effort;
 - 2) each attorney must submit a voucher to MCILS. Counsel should coordinate the submission of voucher so that they can be reviewed together. Co-counsel who practice in the same firm may submit a single voucher that reflects the work done by each attorney.

2. **District Court Child Protection**

- A. Maximum fees, excluding any itemized expenses, for Commission-assigned counsel in child protective cases are set in accordance with the following schedule:

Effective July 1, 2015:

- 1) **Child protective cases** (each stage). \$900

2) **Termination of Parental Rights** (with a hearing). \$ 1,260

- B. Counsel must provide MCILS with written justification for any voucher that exceeds the maximum fee limit. Each child protective stage ends when a proceeding results in a court order as defined in Section 5.1.B below. Each distinct stage in on-going child protective cases shall be considered a new appointment for purposes of the maximum fee. A separate voucher must be submitted at the end of each stage.

3. **Other District Court Civil**

- A. Maximum fees, excluding any itemized expenses, are set in accordance with this subsection. Counsel must provide MCILS with written justification for any voucher that exceeds the maximum fee limit.

Effective July 1, 2015:

- 1) **Application for Involuntary Commitment.** \$420
- 2) **Petition for Emancipation.** \$420
- 3) **Petition for Modified Release Treatment.** \$420
- 4) **Petition for Release or Discharge.** \$420

4. **Law Court**

- A. Maximum fees, excluding any itemized expenses, for Commission-assigned counsel are set in accordance with the following schedule:

Effective July 1, 2015:

- 1) **Appellate work following the grant of petition for certificate of probable cause.** \$1,200
- B. Expenses shall be reimbursed for printing costs and mileage to oral argument at the applicable state rate. Vouchers for payment of counsel fees and expenses must be submitted, including an itemization of time spent.

SECTION 5: MINIMUM FEES

Effective July 1, 2015:

1. Attorneys may charge a minimum fee of \$150.00 for appearance as Lawyer of the Day. Vouchers seeking the minimum fee shall show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer

of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single minimum fee may be charged regardless of the number of clients consulted at the request of the court.

SECTION 6: ADMINISTRATION

1. Vouchers for payment of counsel fees and expenses shall be submitted within ninety days after the date of disposition of a criminal, juvenile or appeals case, or completion of a stage of a child protection case resulting in an order. Vouchers submitted more than ninety days after final disposition, or completion of a stage of a child protection case, shall not be paid.
 - A. For purposes of this rule, "disposition" of a criminal or juvenile case shall be at the following times:
 - 1) entry of judgment (sentencing, acquittal, dismissal, or filing);
 - 2) upon entry of a deferred disposition;
 - 3) upon issuance of a warrant of arrest for failure to appear;
 - 4) upon granting of leave to withdraw;
 - 5) upon decision of any post-trial motions;
 - 6) upon completion of the services the attorney was assigned to provide (e.g., mental health hearings, "lawyer of the day," bail hearings, etc.); or
 - 7) specific authorization of the Executive Director to submit an interim voucher.
 - B. For purposes of this rule, "each stage" of a child protection case shall be:
 - 1) Order after Summary Preliminary hearing or Agreement
 - 2) Order after Jeopardy Hearing
 - 3) Order after each Judicial Review
 - 4) Order after a Cease Reunification Hearing
 - 5) Order after Permanency Hearing
 - 6) Order after Termination of Parental Rights Hearing
 - 7) Law Court Appeal

2. Unless otherwise authorized in advance, all vouchers must be submitted using the MCILS electronic case management program and comply with all instructions for use of the system.
 3. All time on vouchers shall be detailed and accounted for in .10 of an hour increments. The purpose for each time entry must be self-evident or specifically stated. Use of the comment section is recommended.
 4. All expenses claimed for reimbursement must be fully itemized on the voucher. Copies of receipts for payments to third parties shall be retained and supplied upon request.
 5. Legal services provided in the district court for cases subsequently transferred to the superior court shall be included in the voucher submitted to the MCILS at disposition of the case.
-

STATUTORY AUTHORITY: 4 M.R.S. §§ 1804(2)(F), (3)(B), (3)(F) and (4)(D)

EFFECTIVE DATE:

August 21, 2011 – filing 2011-283

AMENDED:

March 19, 2013 – filing 2013-062

July 1, 2013 – filing 2013-150 (EMERGENCY)

October 5, 2013 – filing 2013-228

July 1, 2015 – filing 2015-121 (EMERGENCY)

June 10, 2016 – filing 2016-092