

Chapter 302: PROCEDURES REGARDING FUNDS FOR EXPERTS AND INVESTIGATORS

Summary: This Chapter establishes the procedures for attorneys and pro se parties to request funds for experts and investigators from the Commission and provides that the Executive Director shall make the determination to grant or deny the request. It also establishes the procedures for payment of expert and investigator services authorized in this Chapter.

SECTION 1. DEFINITIONS

1. **Executive Director.** "Executive Director" means the Executive Director of the Maine Commission on Indigent Legal Services or the Executive Director's decision-making designee.
2. **MCILS or Commission.** "MCILS" or "Commission" means the Maine Commission on Indigent Legal Services.

SECTION 2. APPLICATION FOR FUNDS FOR EXPERT AND INVESTIGATIVE ASSISTANCE

1. **Who May Apply.** Any person who is entitled to representation at state expense under the United States Constitution or the Constitution or laws of Maine and who has been found indigent by a state court or who claims to be without sufficient funds to employ necessary expert or investigative assistance may file, on his or her own or through his or her attorney, applications to MCILS for funds to obtain expert or investigative assistance or both.
2. **Application Directed to the Executive Director.** An application for funds to obtain necessary expert or investigative assistance or both shall be directed to the Executive Director.
3. **Form and Contents of Application.** The application shall:
 - A. Be in writing and include a case caption setting forth the court in which the case is pending, the docket number, and the parties;
 - B. Set forth the date on which the applicant was found indigent or, if the applicant has not been found indigent, set forth the basis on which the applicant claims to be without sufficient funds. For persons not found indigent by a court, the application shall be supported by an affidavit demonstrating financial need;
 - C. Describe the nature of the proceeding for which assistance is sought, and in proceedings with respect to adult or juvenile crimes, specifically identify each pending charge and class of each pending charge;
 - D. Set forth a clear and concise statement of the reasons why the assistance is necessary for adequate presentation of the applicant's claim or defense; and

- E. Set forth a clear and concise statement as to the work that will be done by the expert and/or investigator.
4. **Electronic Filing Permitted.** The application must be filed with MCILS according to the procedure directed by the Executive Director. Any procedure developed by the Executive Director shall be designed to protect privileged information from disclosure, and to promote the efficient handling of funds requests by Commission staff.
- A. **Email.** Applications filed by email shall be directed to the Executive Director at the email address for the Executive Director listed on the MCILS website. The application shall be transmitted as an attached document and not set forth in the body of the email. Electronic documents that reflect the signature of the applicant or the applicant's attorney are preferred but are not required.
 - B. *Repealed.*
 - C. *Repealed.*

SECTION 3. DETERMINATION BY THE EXECUTIVE DIRECTOR

The Executive Director shall review the application and the grounds therefore and, in the Executive Director's sole discretion, shall either grant the funds applied for, in whole or in part, or deny the application. When granting an application in whole or in part, the Executive Director may condition the expenditure of funds as set forth in MCILS Rule Chapter 301, *Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel*, and other MCILS procedures. The determination of the Executive Director shall be in writing and may be communicated to the applicant by electronic means.

SECTION 4. PAYMENT FOR EXPERT OR INVESTIGATIVE ASSISTANCE

Upon receipt of an invoice for services for which the expenditure of funds has previously been authorized, the applicant or the applicant's attorney shall forward the invoice to MCILS for processing and payment, together with the relevant authorization. Attorneys shall comply with any procedures established by the Executive Director. The applicant or the applicant's attorney must state that the services were satisfactory and that all applicable reports and other information have been received. The applicant or the applicant's attorney should review the invoice to verify that it conforms to MCILS requirements and that the appropriate rates for services and mileage were billed. The applicant or the applicant's attorney is not required by the Commission to advance funds to investigators or other service providers, subject to any professional conduct requirements. The applicant should make every effort to ensure that the service providers include a State of Maine Vendor Code number on each invoice.

SECTION 5. Transition

Repealed.

STATUTORY AUTHORITY:

4 M.R.S. §§ 1804(2)(G), (3)(A) and (4)(D)

EFFECTIVE DATE:

August 21, 2011 – filing 2011-284

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