

94-649 MAINE COMMISSION ON ~~INDIGENT~~ LEGAL PUBLIC DEFENSE SERVICES

Chapter 303: PROCEDURES REGARDING LEGAL RESEARCH ACCESS AND MATERIALS

Summary: This Chapter establishes the procedures for attorneys to request access to legal research services and to request PDS purchase of or reimbursement for the purchase of legal research materials.

SECTION 1. DEFINITIONS

1. Executive Director. "Executive Director" means the Executive Director of the Maine Commission on Indigent Legal Public Defense Services or the Executive Director's decision-making designee.
2. MCILSPDS or Commission. "MCILSPDS" or "Commission" means the Maine Commission on Indigent Legal Public Defense Services.
3. Legal Research Services. "Legal Research Services" means a subscription based online provider of access to primary and/or secondary legal research materials. For the purpose of this ruleChapter, "Legal Research Services" are limited to the provider(s), if any, with which MCILSPDS has contracted to provide those materials.
4. Legal Research Materials. "Legal Research Materials" means other written or electronic materials an ~~eligible attorney~~Eligible Attorney deems necessary to support the representation of a consumer of indigent legal services.
5. Eligible AttorneyEligible Attorney. For the purpose of this ruleChapter, "Eligible AttorneyEligible Attorney" means a Maine licensed attorney in good standing with the Board of Overseers of the Bar, ~~to whom~~who is ~~is or was~~ assigned ~~to represent~~ a consumer of indigent legal services in a matter approved by MCILSPDS.
6. Consumer of Indigent Legal Services. "Consumer of Indigent Legal Services" means a person entitled to representation at ~~state~~PDS expense under the United States Constitution or the Constitution or laws of Maine and who has been found indigent or partially indigent by a state court or by MCILSPDS.

SECTION 2. ACCESS TO LEGAL RESEARCH SERVICES

1. Any eligible attorneyEligible Attorney may apply to MCILSPDS for access to legal research services. If MCILSPDS grants that eligible attorneyEligible Attorney access to legal research services, those services shall be used exclusively for the benefit of Consumers of Indigent Legal Services.
2. Access to legal research services may be granted from month-to-month and shall be limited to those eligible attorneyEligible Attorneys who bear present professional responsibility for one or more matters on behalf of at least one Consumer of Indigent Legal Services.
3. Eligible attorneyEligible Attorneys shall not access MCILSPDS contracted legal research services when an attorney does not bear present professional responsibility for one or more matters on behalf of at least one Consumer of Indigent Legal Services.
4. Eligible attorneyEligible Attorneys who have received access to MCILSPDS contracted legal research services shall inform MCILSPDS if an attorneythey no longer bears present professional responsibility for one or more matters on behalf of at least one Consumer of Indigent Legal Services within seven calendar days of the conclusion of the attorney's representation of their last Consumer of Indigent Legal Services. At that time, MCILSPDS maywill terminate access to its legal research provider for that attorney.
5. As a condition of use of MCILSPDS contracted legal research services, each eligible attorneyEligible Attorney agrees to log the client for whom that attorney accesses that service in the manner prescribed by MCILSPDS, including through the service itself, if so directed.
6. Eligible attorneyEligible Attorneys who wish to be granted access to MCILSPDS contracted legal research services shall apply in the manner directed by the Executive Director, which may include a prescribed form and may also include a directive to apply through the MCILSPDS secure website.

SECTION 3. APPLICATION FOR PDS PURCHASE OF OR REIMBURSEMENT FOR THE PURCHASE OF LEGAL RESEARCH MATERIALS

1. Any eligible attorneyEligible Attorney may apply to MCILSPDS in the manner prescribed by the Executive Director for permission to purchase legal research materials that attorney deems necessary to support the representation of a consumer of indigent legal services.
2. The Executive Director may approve the PDS purchase of or reimbursement for the purchase of legal research materials by an eligible attorneyEligible Attorney if the Executive Director finds that the proposed purchase is reasonably necessary to support the representation of a Consumer of Indigent Legal Services.

3. The application for permission—PDS purchase of or reimbursement for the to purchase of legal research materials shall be made in writing in the manner directed by the Executive Director, which may include a prescribed form and may also include a directive to apply through the MCILSPDS secure website.
4. 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 MCILSPDS Rule Chapter 301, Fee Schedule and Administrative Procedures for Payment of Court or Commission Assigned Counsel, and other MCILSPDS procedures. The determination of the Executive Director shall be in writing and may be communicated to the applicant by electronic means.
5. If the Executive Director approves the application, PDS will—when practical—purchase the legal research materials on behalf of the Eligible Attorney and notify the attorney of the same. If it is impossible or impractical for PDS to purchase the approved legal research materials, only then will the Executive Director grant permission for the Eligible Attorney to purchase the materials and be reimbursed by PDS.
- 5.6. Eligible attorneyEligible Attorneys who wish to be reimbursed for the purchase of legal research materials for which permission has been granted by the Executive Director pursuant to Section 3(5) herein shall seek reimbursement by providing the following documents in .pdf form:
 - a. The request upon which the Executive Director acted;
 - b. The decision of the Executive Director; and
 - c. Either payment confirmation from the vendor specifying the product purchased and the amount paid, or an invoice and proof of payment.
- 6.7. Retroactive requests for reimbursement shall not be granted except in extraordinary circumstances on a showing that for reasons outside of that attorney's control, a timely request could not be made.
- 7.8. Purchases made prior to the effective date of this rule shall not be subject to reimbursement.

STATUTORY AUTHORITY:

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

EFFECTIVE DATE:

November 12, 2022 – filing 2022-222