

Chapter 302: PROCEDURES REGARDING FUNDS FOR EXPERTS AND INVESTIGATORS

Summary: This Chapter establishes the procedures for attorneys 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 Public Defense Services or the Executive Director's decision-making designee.
2. PDS or Commission. "PDS" or "Commission" means the Maine Commission on Public Defense Services.
3. Applicant. "Applicant" means the client on whose behalf an attorney submits an application for funds pursuant to this Chapter.
4. Attorney. "Attorney" means the lawyer for the Applicant.
5. Employed Counsel. "Employed Counsel" means an attorney employed by the commission to provide legal services directly to persons who are eligible to receive indigent legal services in civil proceedings.
6. "Public Defender" means an attorney employed by the commission to provide legal services directly to persons who are eligible to receive indigent legal services in criminal and juvenile proceedings.

SECTION 2. APPLICATION FOR FUNDS FOR EXPERT AND INVESTIGATIVE ASSISTANCE

1. **Who may apply.**
 - A. Any person who has been appointed or assigned counsel at PDS expense, or who is represented by an Employed Counsel or Public Defender; and

-
- B. Any person who is entitled to representation at state expense under the United States Constitution or the Constitution or laws of Maine who is represented by retained counsel and who is found indigent by PDS.
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 completed on a form designated by the Executive Director;
 - B. Include the case caption and the docket number;
 - C. 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 applying pursuant to Section 2(1)(B), the application shall be supported by an affidavit demonstrating indigency. Said affidavit shall be on the same form used to determine financial eligibility for appointment of counsel;
 - D. Describe the nature of the proceeding for which assistance is sought, and in proceedings with respect to adult or juvenile crimes, specifically identify the name and class or statutory cite of the most serious charge, or of the charge which is the basis for the request for funds;
 - E. 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;
 - F. Set forth a clear and concise statement as to the work that will be done by the expert and/or investigator; and
 - G. Itemize the total amount of funds being requested, the vendor's rate, and any anticipated expenses that may be paid out of the funds.
 4. **Parameters for requests.**
 - A. Requests for funds must be submitted before the expert or investigator begins work on the case.
 - B. The request for funds should encompass all anticipated funds that will be needed for the expert or investigator's work to be completed.
 - a. For interpreters and translators, Attorneys should estimate the total cost for the services for the life of the case, as opposed to separate requests for each instance in which the interpreter or translator will perform work.

- b. When it is probable that an expert or investigator will be needed for a court appearance, the request for funds should include the total anticipated costs needed to pay for the expert or investigator's services through disposition of the case.

5. Electronic filing permitted. The application must be filed with PDS 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. *Repealed.*
- 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 PDS Rule Chapter 301 and other PDS procedures. The determination of the Executive Director shall be in writing and may be communicated to the Attorney by electronic means.

SECTION 4. PROCEDURE AFTER APPLICATION GRANTED

1. After an application for funds is granted, the attorney must:
 - A. Ensure the expert or investigator has a State of Maine Vendor Code, or is aware of the process for applying for one;
 - B. Provide the expert or investigator a copy of the funds authorization;
 - C. Inform the expert or investigator that PDS is only guaranteeing payment for services up to the amount authorized at the rate authorized; and
 - D. Inform the expert or investigator that:
 - a. Any travel expenses incurred must be within the applicable rates set by the Government Service Administration;

- b. Mileage incurred in Maine is reimbursable up to the rate set by the State of Maine Office of State Controller;
 - c. PDS will not reimburse for travel insurance, cancellation protection, or the like; and
 - d. Absent extenuating circumstances, PDS will not reimburse for first class airfare or seat upgrades.
- E. Upon receipt of an invoice for services for which the expenditure of funds has previously been authorized, the Attorney shall forward the invoice to PDS for processing and payment, together with the relevant authorization.
- F. Attorneys shall comply with all procedures established by the Executive Director. The Attorney must state that the services were satisfactory and that all applicable reports and other information have been received. The Attorney must review the invoice to verify that it conforms to PDS requirements and that the appropriate rates for services and mileage were billed. The Attorney is not required by the Commission to advance funds to investigators or other service providers, subject to any professional conduct requirements. The Attorney should ensure that the expert or investigator includes a State of Maine Vendor Code number on each invoice.
- G. Failure of the Attorney to submit an invoice for expert or investigative services to PDS within 10 calendar days of receiving a complete and accurate invoice from the expert or investigator may result in non-payment of the Attorney's vouchers until the Attorney submits the invoice to PDS.

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

AMENDED:

August 1, 2021 – filing 2021-150
September 1, 2024 – filing 2024-207

APAO ACCESSIBILITY CHECK (Word):

March 19, 2026

AMENDED:

March 24, 2026 – filing 2026-067