

**RULES GOVERNING BILLING
FOR APPOINTED COUNSEL & GUARDIANS AD LITEM**

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 properly complete and submit the forms prescribed in the Ohio Public Defender's STANDARDS AND GUIDELINES FOR APPOINTED COUNSEL REIMBURSEMENT, current edition. Attorneys shall use the Court's electronic filing system to submit the Motion, Entry, and Certification for Appointed Counsel Fees form (OPD-1026R) and the Financial Disclosure form (OPD-206R). An entry appointing the attorney and a dispositional entry must be docketed to the Court's case management system prior to the submission of these forms.

2. Reimbursement of Expenses

All reimbursement for expenses is subject to the following rules:

General

- a. Expenses must be reasonably related and necessary to the defense of an indigent client. These expenses include travel, expert services and certain other miscellaneous expenses.
- b. Expenses must be itemized on the Motion, Entry, and Certification for Appointed Counsel Fees form (OPD-1026R).
- c. A receipt must accompany all expenses that exceed \$1.00.
- d. Approval by the Assigned Judge is required prior to incurring expenses that exceed \$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.
- e. Court approval is not required for expenses under \$100.00; however, attorneys shall not fractionalize expenses to circumvent the \$100.00 cap.
- f. Photocopies are reimbursed at \$0.05 per page if made in-house, or at actual cost (with receipt) if a service is used. The number of copies must be listed.

Travel

Pursuant to OAC 126-1-02, travel time and expense reimbursement are subject to the following conditions:

- a. The attorney must itemize on the Motion, Entry, and Certification for Appointed Counsel Fees form (OPD-1026R) all travel expenses including mileage, airfare, lodging, meals, and other miscellaneous items.
- b. Expenses for lodging and meals are reimbursable only when the attorney travels more than 45 miles one way from the attorney's home or office for purposes of representing an indigent client, and when an overnight stay is required.

- c. Attorney fees for time spent in-transit and expenses for mileage and parking are reimbursable only when the attorney travels to a county outside of the county in which the attorney resides or maintains an office. Reimbursement will not be made for attorney fees and/or expenses incurred between the attorney's home and office, the attorney's home and a court in the same county, or the attorney's office and a court in the same county.
- d. Except as limited by this section, an attorney may bill for hours spent in-transit between a specified point of departure and destination. Once the destination has been reached, the attorney may not bill for hours spent at the destination as hours in-transit. Hours spent working on a case at the specified destination, however, may be billed accordingly.
- e. Lodging, meals, mileage, and travel by common carrier are eligible expenses for reimbursement subject to the current rates prescribed by OAC 126-1-02, or the applicable county rate, if lower. For a copy of the current rates, visit obm.ohio.gov – Agency Resources – OBM Travel Rule. If travel expenses are claimed, the dates traveled, and points of departure and destination must be specified in the expenses section of the Motion, Entry, and Certification for Appointed Counsel Fees form (OPD-1026R).
 - 1) Expenses for travel by commercial carrier will be reimbursed at the lowest fare available for the trip and only when the attorney travels outside of Ohio.
 - 2) Reimbursement for travel by personal auto shall be made at the current rate set by OBM.

Experts

- a. Approval by the Assigned Judge is required prior to incurring expert expenses.
- b. Reimbursement for expert expenses shall be limited to those where the expert services provided meet all the following requirements:
 - 1) The expert is used only for the defense of the accused or party represented; and
 - 2) The expert is an independent expert answerable solely to defense counsel, not to the Court or prosecution (see R.C. 2945.371(B)).
- c. Expert expenses must be submitted using the Request for Court-Paid Experts and Expenses form (OPD-209).
- d. Either a receipt or a copy of the expert's invoice or both must accompany the form. The number of hours worked, and the hourly rate charged must be included in the invoice.
- e. Expert expenses may not be submitted through the attorney fee application.

3. Non-Reimbursable Expenses

Appointed attorneys and guardians ad litem will not be reimbursed for the following:

- a. mileage and parking incurred within the county the attorney resides or maintains an office
- b. mileage and parking incurred between the attorney's home and office, the attorney's home and court in the same county, or the attorney's office and court in the same county
- c. any fixed office overhead expenses
- d. court transcripts or depositions, except as provided by law
- e. 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

- f. court fees, fines, or costs that are subject to waiver due to the indigency of the client (e.g. subpoena fees, processor fees, etc.)

4. Timely Submission of Fee Application

Appointed attorneys and guardians ad litem shall properly complete and submit all prescribed forms within 31 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. Failure to properly complete and submit all prescribed forms within said 31 days will result in a fifty-percent reduction in the fees and expenses paid to counsel. Prescribed forms 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 submissions will be declined electronically and include the reason for return. The attorney shall correct the deficiency and resubmit all prescribed forms within ten days. Defective submissions which are corrected and resubmitted 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 case termination only when the attorney has incurred a reimbursable expense, the attorney has reached the case fee cap, the case has not been disposed of within a twelve-month period from the date of appointment, the attorney's client is ordered to participate in a diversion program, or a warrant or capias has been issued.

Appointed attorneys and guardians ad litem submitting a periodic bill shall do so within 31 days of their last court appearance.

If the case resumes, the attorney's original appointment continues, and a new fee cap will not apply.

6. Multiple Charges, Counts, and Co-Defendants

An attorney is entitled to one fee when one complete proceeding or trial is held in one court for a single client on charges or counts arising out of a single incident or a series of related incidents that have been consolidated.

In cases involving multiple charges where only one fee is payable, the fee maximum shall be based on the highest degree of offense charged.

Time billed on one Motion, Entry, and Certification for Appointed Counsel Fees form (OPD-1026R) cannot be billed on any other form for which payment or reimbursement is being requested.

When one client is charged with multiple offenses and the counts/complaints are assigned to the same Judge and Magistrate, with much of the work performed and the cases disposed simultaneously, the attorney shall submit only one Motion, Entry, and Certification for Appointed Counsel Fees form (OPD-1026R). The maximum fee shall be based on the highest degree of offense charged.

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 for Appointed Counsel Fees form (OPD-1026R).

7. Held Open Unruly and Delinquency 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 prescribed forms must be submitted for payment. If disposition is held open and a review hearing is scheduled, the case remains open and the prescribed forms cannot be submitted until final disposition is entered.

8. Day Only Assignments on Delinquency Cases

Attorneys shall properly submit the prescribed forms within 31 days of the preliminary hearing. No entry appointing the attorney is required. The fee cap is based upon one hour of service.

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 the person is guilty of contempt. The attorney shall submit the prescribed forms within 31 days of the date of the journal entry disposing of the motion, as required by paragraph (4) of these billing rules.

10. Abuse/Neglect/Dependency Cases

Appointed attorneys and guardians ad litem shall submit the prescribed forms following the initial disposition hearing and each subsequent annual review hearing, as required by paragraph (4) of these billing rules. Motion hearings, review hearings, status conferences and drug court appearances do not constitute an annual review hearing.

If a permanent custody motion is filed during an annual review period, two separate fee caps will apply. Appointed attorneys and guardians ad litem shall first submit the prescribed forms for work completed related to the annual review. This bill shall be submitted within 31 days after a motion for permanent custody is filed or within 31 days following the first permanent custody hearing. The bill for the permanent custody proceeding shall be submitted separately and within 31 days of the journal entry disposing of the motion.

11. Abuse/Neglect/Dependency/Custody Cases - No Further FCCS/State Involvement

Once legal custody has been awarded to a party other than FCCS and the state is no longer an interested party, the appointed attorneys and guardians ad litem shall submit the prescribed forms within 31 days of the date of the journal entry disposing of the complaint, as required by paragraph (4) of these billing rules.

If a subsequent motion regarding custody issues is filed, and the state is no longer an interested party, the parties on the case are not 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. Guardians ad litem shall submit the prescribed forms following the initial disposition hearing on the new motion filed for change of custody, visitation, etc., as required by paragraph (4) of these billing rules. Thereafter, guardians ad litem shall submit the prescribed forms for additional services but only one Motion, Entry, and Certification for Appointed Counsel Fees form (OPD-1026R) will be accepted in any twelve-month period. The twelve-month 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/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 the prescribed forms upon the disposition of the delinquency, as required by paragraph (4) of these billing rules. Any forms submitted thereafter, for annual reviews, termination of custody, etc. must be submitted along with a motion for extraordinary fees.

13. Itemization of Attorney Hours / Time Logs

The itemization of hours spent in-court and out-of-court by the attorney is required on every Motion, Entry, and Certification for Appointed Counsel Fees form (OPD-1026R). Hours must be itemized in tenth of an hour (6 minute) increments. Billing for time worked by the attorney's support staff (secretary/administrative assistant) will not be paid.

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 paragraph (16) below, these records should not be submitted with the billing, but may be requested from the attorney if the Court or the Ohio Public Defender has questions about the billing. The suggested format for maintaining such time is on the Attorney Time Log form (OPD-1028); 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 for Appointed Counsel Fees form (OPD-1026R) was submitted to the Court.

14. Attorney Withdrawal/Removal

Appointed attorneys and guardians ad litem shall submit the prescribed forms within 31 days of being removed or granted leave to withdraw from a case. The withdrawal/removal entry must be docketed to the Court's case management system prior to the submission of the prescribed forms. For billing purposes, the withdrawal/removal entry serves as final disposition.

15. Underpayment/Over Payment of Reimbursement

If appointed attorneys and guardians ad litem receive 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

In addition to all regular prescribed forms required for reimbursement, requests for extraordinary fees must be made by written motion and shall include all the following in the motion:

- a. a written description supporting the reason for the request
- b. a separate, itemized log clearly reflecting the dates of service, nature of services rendered, and hours worked
- c. any prior requests for extraordinary fees on the same case or cases, to include date of request, amount granted, and filing date of the Motion, Entry and Certification for Appointed Counsel Fees form (OPD-1026R)

- d. the appropriate category for each request:
- 1) a complex case involving multiple counts dealing with multiple separate incidents which require an extraordinary amount of trial preparation
 - 2) cases that involve unique legal issues
 - 3) cases that require multiple types of hearings
 - 4) cases requiring extended days of trial

Requests for extraordinary fees will not be considered prior to disposition. The motion shall be submitted as required by paragraph (4). All motions must be included in the same submission as the other prescribed forms. Motions shall not be submitted directly to the Judge or Magistrate presiding over the case.

Requests for extraordinary fees will be reviewed by the **Legal Director** and shall only be made with approval of the Assigned Judge.

(Amended Effective 10/25/2010; 2/1/2012; 1/18/2013; 3/25/22; **3/4/24**)