

## **9.25 Legal Billing**

Effective 12/1/82

### **PURPOSE**

In the course of investigating reports and referrals of suspected abuse or neglect, and in initiating or responding to court action related to custody of a child, there are a variety of related legal expenses. Payment for these expenses can come from several sources, all of which have certain procedures and limitations.

Expenses are court-related when a petition has been brought before the court:

1. When the Department is the petitioner or custody to the Department is a consideration, including actions under Title 22 MRSA §4001 et seq., juvenile citations, divorce custody, or other custody actions.
2. When a child in the care or custody of the Department has been charged with an offense.

Some expenses may not be directly related to a court hearing but are, by this policy, termed legal related:

1. Photographs, taken by hospitals, law enforcement, or Departmental staff for child protective purposes, *not* for medical treatment or criminal prosecution purposes.
2. Professional records (certified copies) and information, including depositions, when not otherwise available.
3. Vital records (certified abstract copies) when not available from the Department's Division of Vital Records..
4. Notarization, when not available through the Department or the court, or when statutes require notarization outside the Department (e.g., affidavits related to surrender and release of a child for adoption, forms SWSS-095, 096 and 097).
5. Professional/examinations/evaluation to be used in decision making by the Department regarding custody and/or treatment in preparation for or related to a child protection or child custody proceeding.

### **PRACTICE STANDARDS**

1. Some expenses have usual or standard fees. These include:
  - a. Photographs
  - b. Vital records
  - c. Subpoenas (standard fee plus mileage)
  - d. Personal service in-hand

- e. Service by publication
  - f. Notarizations
2. Other services and their fees are subject to negotiation. Effective utilization of professional time is essential. Prior to entering into an agreement with a provider, the worker or Assistant Attorney General will:
    - a. Determine whether the service is necessary from the Department's perspective:
      - (1) See letters to and from the court in Section XI, Addendum C, regarding examinations requested by other parties/the court.
      - (2) Services and expenses of the guardian ad litem and court appointed counsel are paid by the court subject to approval by the judge.
    - b. Prepare written or oral information which will clarify the services and time to be purchased.
    - c. Secure appropriate and/or advance approval, including directing necessary questions to Regional Program Manager and/or Program Specialist who will confer with Department of Human Services Assistant Attorney General as needed.
    - d. Make written or oral agreement with the provider regarding *exact* rates/services, in accordance with this policy, including informing provider of billing procedures.
  3. Services and fees subject to negotiation up to maximums specified in Addendum C, include:
    - a. Information/consultation from professionals, including depositions and compliance with investigatory subpoenas.
    - b. Examinations by licensed psychiatrists, physicians, psychologists, or other professionals for:
      - (1) Pending court cases when the Department is the petitioner or custody to the Department is a consideration.
      - (2) Other critical decision-making approved by Regional Program Manager or designee.
    - c. Preparation of comprehensive reports, beyond report which is usually required for Title XIX or provider's treatment records.
    - d. Consultation, preparation, and testimony for custody hearings.
    - e. Transcripts.
    - f. Attorney for child in custody, charged with criminal offense.

## **PROCEDURES**

*In order to simplify reference, items to be purchased have been divided into the following categories:*

1. Professional records and information; depositions
2. Photographs

3. Subpoenas
4. Personal service in-hand
5. Service by publication
6. Notarization
7. Vital records
8. Professional exams
9. Preparation of comprehensive supplemental report
10. Expert examinations, consultation, and testimony
11. Occurrence/lay/non-expert testimony
12. Transcripts
13. Attorney for child in custody

*Each of these categories will specify:*

1. Item to be purchased
2. Restrictions/conditions/limitations
3. Fee schedule
4. Advance approval requirements
5. Exceptions/consultations
6. Billing procedures

**1. Professional Records and Information; Depositions**

- a. *Restrictions/Conditions/Limitations:*
  - (1) Subpoena by Assistant Attorney General may be necessary and/or appropriate.
- b. *Fee Schedule:*
  - (1) Photocopying if not otherwise available, up to \$10 per record or deposition.
  - (2) Professional time, if not otherwise available, up to one hour per client.
- c. *Advance Approval Requirements:*
  - (1) Worker and Assistant Attorney General if under \$100 per case.
  - (2) Also Regional Program Manager if over \$100.
- d. *Exceptions/Consultations:*
  - (1) Program Specialist
- e. *Billing Procedures:*
  - (1) Original and one copy of bill
  - (2) G16A stamped and encoded by budget officer
  - (3) Approval by Regional Program Manager if over \$100 per case
  - (4) Cover memo if additional clarification needed
  - (5) Approval by Assistant Attorney General.

**2. Photographs**

- a. *Restrictions/Conditions/Limitations:*

- (1) Taken by hospital staff, law enforcement, or Department of Human Services worker, *not* by a professional photographer.
  - (2) For child protection purposes, *not* for medical or criminal prosecution purposes. If photographs are to be used for multiple purposes, costs can be apportioned.
  - (3) Color preferred.
- b. *Fee Schedule:*
- (1) Usual rate charged by film processor for film, developing, and/or reprints.
- c. *Approval Requirements:*
- (1) Worker and Assistant Attorney General.
- d. *Exceptions/Consultations:*
- (1) Program Specialist.
- e. *Billing Procedures:*
- (1) Original and one copy of bill, showing any apportioned costs.
  - (2) G16A stamped and encoded by Budget Officer.
  - (3) Approval by Assistant Attorney General.

### 3. **Subpoenas**

- a. *Restrictions/Conditions/Limitations:*
- (1) Issued by Assistant Attorney General to gain access to information for investigation or for court appearance.
- b. *Fee Schedule:*
- (1) Standard rate, set by statute (currently \$10). Mileage at state rate (currently 20 cents per mile).
- c. *Approval Requirements:*
- (1) Worker and Assistant Attorney General.
- d. *Exceptions/Consultations:*
- (1) Program Specialist.
- e. *Billing Procedures:*
- (1) Paid in advance by Assistant Attorney General.
  - (2) To be shown as paid on subsequent bill from provider, if any (e.g., witness fee).

### 4. **Personal Service In-Hand**

- a. *Restrictions/Conditions/Limitations:*
- (1) Process servicer must be legally authorized to make service at that place (e.g., Deputy Sheriff's jurisdiction limited to his Sheriff's county.)
- b. *Fee Schedule:*
- (1) In state, standard rate per document, per person, set by statute (currently \$8). Mileage actually traveled, at court rules rate. Postage.
  - (2) Out-of-state, rate set by out-of-state authority. Payment in advance may be required; contact Assistant Attorney General for check.

- c. *Approval Requirements:*
  - (1) Worker.
- d. *Exceptions/Consultations:*
  - (1) Program Specialist.
- e. *Billing Procedures:*
  - (1) Original and one copy of bill (unless paid in advance) stamped and encoded by Budget Officer.
  - (2) Approval by worker.
  - (3) No G16A.

**5. Service by Publication**

- a. *Restrictions/Conditions/Limitations:*
  - (1) At least second class newspaper (i.e., not an advertising circular, seasonal publication, or newsletter).
- b. *Fee Schedule:*
  - (1) Usual legal notices rate as set by the newspaper.
- c. *Approval Requirements:*
  - (1) Worker
- d. *Exceptions/Consultations:*
  - (1) Program Specialist.
- e. *Billing Procedures:*
  - (1) One copy of each tear sheet.
  - (2) Original and one copy of bill, stamped and encoded by Budget Officer.
  - (3) Approval by worker.
  - (4) No G16A.

**6. Notarizations**

- a. *Restrictions/Conditions/Limitations:*
  - (1) If not available through the Department of Human Services or court, or when statutes require notarization outside the Department (e.g., affidavits related to surrender and release of a child for adoption, Forms SWSS-095, 096 and 097).
- b. *Fee Schedule:*
  - (1) Going rate.
- c. *Approval Requirements:*
  - (1) Worker.
- d. *Exceptions/Consultations:*
  - (1) Program Specialist.
- e. *Billing Procedures:*
  - (1) Original and one copy of bill.
  - (2) G16A stamped and encoded by Budget Officer.

(3) Assistant Attorney General approval not required.

7. **Vital Records**

a. *Restrictions/Conditions/Limitations:*

(1) Vital records to be certified abstract copies.

b. *Fee Schedule:*

(1) Going rate.

(2) Some out-of-state Divisions of Vital Records may require payment in advance; see billing below.

c. *Approval Requirements:*

(1) Worker.

d. *Exceptions/Consultations:*

(1) Program Specialist.

e. *Billing Procedures:*

(1) Original and one copy of bill.

(2) G16A stamped and encoded by budget officer.

(3) Assistant Attorney General approval not required.

(4) If payment in advance required, forward to Accounting Services the request letter for the vendor with memo requesting Accounting Services to secure check and mail letter to vendor. No G16A.

8. **Professional Exams**

a. *Restrictions/Conditions/Limitations:*

(1) May be paid by:

(a) Client, or other resource, if appropriate

(b) Title XIX:

i. If the examiner has a Title XIX agreement, and

ii. If Department of Human Services requests the exam or agrees that exam desired by indigent parents, guardian ad litem or court will be helpful from Department's perspective (if in doubt, refer to letters to and from the late Judge Danton in the Addendum), and

iii. The person examined or the child on whose behalf the exam is being done is Title XIX eligible.

iv. In accordance with fee schedule and billing procedures below.

(c) Child Welfare legal account:

i. If person examined or child is not Title XIX eligible, and

ii. Department requests or agrees to exam

iii. Within fee schedule below.

(d) Court if (a)-(c) above do not apply, and court has ordered or approved exam.

- (2) When Title XI or Child Welfare legal account is being utilized, worker will contact the person (or, if child, whoever will accompany the child) prior to the appointment re remind and arrange for transportation, if necessary.
  - (3) Missed appointments may be paid for by the child welfare legal account if the above contact was made, but cannot be paid by Title XIX.
  - (4) If more than one person is seen at the same appointment, time is to be apportioned.
- b. *Fee Schedule:*
- (1) Any payment above basic Title XIX rates is to be negotiated by the worker before service is provided, preferably in writing (e.g., G16A).
  - (2) Factors to be considered in selecting an examiner and determining rate: educational background and experience, professional reputation, skill as an examiner, and complexity of exam.
  - (3) Up to 2 hours per person, plus 1 hour for written report (a total of 3 hours) can be paid at the following maximum special rates, billed by the 1/4 hour:
 

(a) Psychiatrist	\$60
(b) Physician	\$60
(c) Psychologist	\$40
(d) Other	\$40
  - (4) Up to two additional hours evaluation per person, at basic Title XIX rates, if additional time is required (e.g., if testing for specific level of mental retardation is necessary).
- c. *Advance Approval Requirements:*
- (1) Worker, up to \$500 per case. Assistant Attorney General is not required; however, if it appears likely that examiner may be called to testify at a hearing, consultation with Assistant Attorney General is advised.
  - (2) Also supervisor if special Title XIX rate is applied.
  - (3) Also Regional Program Manager if:
    - (a) Over \$500, or
    - (b) If for missed appointment, or
    - (c) If examiner is not a physician, psychiatrist, psychologist, or
    - (d) If exam is related to a court action initiated by other than the department (e.g., divorce custody, adoption, juvenile citation), or
    - (e) If exam is related to the decision whether to file an initial child protection petition.
  - (4) Division Director or designee if examiner does not have a current agreement with the Title XIX program, or other unusual circumstance.
- d. *Exceptions/Consultations:*
- (1) Program Specialist.
- e. *Billing Procedures:*

- (1) Title XIX billing form:
  - (a) Block #1: Patient's name: eligible person examined or if not, name of eligible child.
  - (b) Block #3: Person examined, if eligibility is through child.
  - (c) Block #4: Address of eligible person.
  - (d) Block #6: Eligible person's social security number (person seen, if eligible; child's social security number if eligibility is through child).
  - (e) Block #8: Relationship of person seen to child (e.g., mother, mother's boyfriend, aunt, stepmother, etc.).
  - (f) Itemized services provided, including any special rate exams and any supplemental exam time and/or any therapy.
  - (g) Cross reference to any other family members seen by that provider at the same appointment(s), which are to be billed separately and processed simultaneously.
  - (h) Procedure codes for the unpublished special rate exams (inserted by regional office):
    - i. 9500 (physician) or 9501 (psychologist) if person seen is eligible.
    - ii. 9500F or 9501F if eligibility is through child.
  - (i) Fee:
    - i. See fee schedule below for special rate exams.
    - ii. Usual Title XIX rates for supplemental exam or therapy.
  - (j) Total hours billed, including itemization of any differential in rates (i.e., special or basic Title XIX rates, and report).
  - (k) Cross reference to any other family members seen by that provider at the same appointment(s), which are to be billed separately, and processed simultaneously.
- (2) G16A stamped and encoded by budget officer, including signatures of persons who have given prior approval.
- (3) Cover memo if clarification needed.

**9. Preparation of Comprehensive Supplemental Report**

**a. *Restrictions/Conditions/Limitations:***

- (1) Based on current exam and/or previous contacts with client, beyond report which is required for basic Title XIX services and/or which would usually suffice for provider's own files.
- (2) May be paid by:
  - (a) Client, if appropriate.
  - (b) Title XIX, if eligible.
  - (c) Child welfare account, if Department of Human Services agrees
  - (d) Court, if so ordered and (a) and (b) above do not apply.



- (3) If Title XIX or child welfare legal account to be used for payment, rates to be negotiated by the worker within maximum.
- b. *Fee Schedule:*
  - (1) Factors to be considered: educational background and experience, complexity of material to be summarized, professional reputation, intended use and weight of report (e.g., whether for court hearing).
  - (2) Up to one hour per report, or per person if report is for multiple clients.
  - (3) Maximum rates per hour, to be billed by the 1/4 hour:
 

(a) Psychiatrist	\$60
(b) Physician	\$60
(c) Psychologist	\$40
(d) Other	\$40
- c. *Advance Approval Requirements:*
  - (1) Worker.
- d. *Exceptions/Consultations:*
  - (1) Program Specialist.
- e. *Billing Procedures:*
  - (1) To be billed on the same Title XIX billing form, if done in conjunction with a special rate exam.
  - (2) If no current exam, original and one copy of bill, itemized.
  - (3) G16A stamped and encoded by budget officer, including signatures of persons who have given advance approval.
  - (4) Cover memo if clarification needed.
  - (5) Approval by Assistant Attorney General.

**10. Expert Consultation and Testimony**

- a. *Restrictions/Conditions/Limitations:*
  - (1) Subpoena may be necessary and/or appropriate
  - (2) Can include preparation time with departmental staff and travel time, in addition to time at the court house
  - (3) Not paid by Title XIX
  - (4) Paid by:
    - (a) Client, if appropriate
    - (b) Child welfare legal account if Department of Human Services agrees necessary from Department's perspective and Assistant Attorney General agrees. (See Addendum 1)
    - (c) Court, if (a) and (b) above do not apply, and court agrees necessary.
  - (5) For child welfare legal account, rates to be negotiated by the worker in advance, preferably in writing.

- (6) Time from the professional's practice is being purchased. Waiting time prior to testifying is to be kept to a minimum. If a hearing is canceled, professionals are to be notified forthwith.
- b. *Fee Schedule:*
  - (1) Factors to be considered: educational background and experience, professional reputation, skill and credibility as a witness, and weight of testimony.
  - (2) Maximum rates per hour, to be billed by the 1/4 hour:
 

(a) Psychiatrist	\$60
(b) Physician	\$60
(c) Psychologist	\$40
(d) Other	\$40
  - (3) Up to 2 hours for time set aside for a hearing canceled on less than 24 hours notice, if the professional is unable to effectively utilize/ reschedule the time.
- c. *Advance Approval Requirements:*
  - (1) Worker and Assistant Attorney General, up to \$250 per witness.
  - (2) Also Regional Program Manager, if over \$250.
- d. *Exceptions/Consultations:*
  - (1) Program Specialist.
- e. *Billing Procedures:*
  - (1) Original and one copy of itemized bill, indicating any subpoena prior payment.
  - (2) G16A stamped and encoded by budget officer.
  - (3) Approval by Regional Program Manager, if over \$250 per case.
  - (4) Cover memo if clarification needed.
  - (5) Approval by Assistant Attorney General.

**11. Occurrence/Lay/Non-Expert Testimony**

- a. *Restrictions/Conditions/Limitations:*
  - (1) Person who has knowledge based on his presence at the event or other personal observation or contact.
  - (2) Subpoena may be necessary or appropriate.
- b. *Fee Schedule:*
  - (1) Subpoena fee, if subpoenaed.
  - (2) Additional payments may be interpreted as compromising the witness. However, lost wages not covered by subpoena fee may be paid if lost wages would cause hardship, and if payment plan is made known to other counsel and court.
- c. *Advance Approval Requirements:*
  - (1) Worker and Assistant Attorney General, up to \$500 per case.
  - (2) Also supervisor if special rate in b. (2) above applied, rather than basic Title XIX rates.
  - (3) Also Regional Program Manager if:

- (a) Over \$500, or
- (b) If for missed appointment or
- (c) If examiner is not a physician, psychiatrist, psychologist, or
- (d) If exam is not related to a pending court case in which the Department is the petitioner or custody to the Department is a consideration.
- (4) Division Director or designee if examiner does not have a current agreement with the Title XIX program, or other unusual circumstances.
- d. *Exceptions/Consultations:*
  - (1) Program Specialist.
- e. *Billing Procedures:*
  - (1) Original and one copy of bill, indicating subpoena payment, if any
  - (2) G16A stamped and encoded by budget officer
  - (3) Approval by Regional Program Manager, if over \$100
  - (4) Approval by Assistant Attorney General.

## **12. Transcripts**

- a. *Restrictions/Conditions/Limitations:*
  - (1) When needed by Assistant Attorney General for preparation for hearing or appeal.
- b. *Fee Schedule:*
  - (1) Going rate.
- c. *Advance Approval Requirements:*
  - (1) Assistant Attorney General and Program Specialist.
- d. *Exceptions/Consultations:*
  - (1) Program Specialist.
- e. *Billing Procedures:*
  - (1) Original and one copy of bill
  - (2) G16A stamped and encoded by budget officer
  - (3) Cover memo if clarification needed
  - (4) Approval by Assistant Attorney General

## **13. Attorney for Child in Custody**

- a. *Restrictions/Conditions/Limitations:*
  - (1) For a child charged with an offense while he is in the care or custody, or the offense occurred while he was in the care or custody of the Department.
- b. *Fee Schedule:*
  - (1) Services/time to be purchased, rates, expected disbursements to be negotiated by Department of Human Services and attorney.
  - (2) Factors to be considered: educational background and experience, professional reputation, complexity of case, and customary fees for court appointed counsel.

- (3) Services to be itemized and billed by the 1/10 hour.
- (4) Disbursements to be itemized.
- c. *Advance Approval Requirements:*
  - (1) Worker
  - (2) Also Regional Program Manager or designee if over rate for court appointed counsel.
- d. *Exceptions/Consultations:*
  - (1) Program Specialist.
- e. *Billing Procedures:*
  - (1) Original and one copy of bill.
  - (2) G16A stamped and encoded by budget officer
  - (3) Cover memo if clarification needed
  - (4) Approval by Regional Program Manager if over rate for court appointed counsel
  - (5) Approval by Assistant Attorney General.