

Chapter 302: PROCEDURES REGARDING FUNDS FOR EXPERTS AND INVESTIGATORS

Summary: This Chapter establishes the procedures for attorneys and pro se defendants 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.** Defendants, respondents, petitioners or patients who are entitled to representation at state expense under the United States Constitution or the Constitution or laws of Maine and who have 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;
 - 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 may be filed with MCILS by email or facsimile.
- 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. **Facsimile.** Applications filed by facsimile shall be directed to the Executive Director at the "Fax" number listed on the MCILS website. The application shall be accompanied by a separate cover page that identifies the sender and sets forth the sender's address, telephone number and email address, if any. Applications filed by facsimile shall bear the signature of the applicant or the applicant's attorney.
 - C. **Exception: Affidavits.** Applications supported by affidavit as set forth above, may be filed electronically for prompt review, but no action will be taken thereon until an original signed copy of the affidavit is filed with the Commission, either in person or by mail.

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 as set forth in Section 2.

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. 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 to advance funds to investigators or other service providers. 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

Invoices for expert and investigative services authorized by a court prior to July 1, 2010 and not submitted to the court for payment before that date shall be submitted to MCILS for processing and payment. All invoices submitted must be accompanied by a copy of the court order authorizing expenditure of the funds.

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

EFFECTIVE DATE: