

Guidelines for Itemized, Hourly Payment: Judicial Paid Appointments Only
Court-Appointed Counsel, Guardians *ad litem* (for adults),
Non-Attorney Child and Family Investigators and Court Visitors

- A) Claims for payment on an hourly basis shall be submitted using the Judicial Department's online CAC System (if the appointee is authorized to use this system) or submitted to the appointing court on form JDF207 ("Colorado Judicial Department Request and Authorization For Payment Of Fees") including attachments, and shall be in compliance with these guidelines. For appellate counsel only, claims for payment shall be submitted directly to the Court of Appeals. The claims and attachments shall conform to the Procedures for Payment of Fees and Expenses (Attachment E, this CJD). In accordance with this CJD and all other applicable Department policies and procedures, and upon review and approval by the appointing court, the request for payment will be sent to the State Court Administrator's Office (SCAO) for processing. The SCAO may review, verify, and revise, when appropriate, such authorized requests for payment.
- B) A schedule of maximum hourly rates for appointees is established by the Supreme Court in this Chief Justice Directive, section IV.C., and/or by Chief Justice Order. No payment shall be authorized for hourly rates in excess of the Chief Justice Directive or Order. The maximum total fee that may be paid to an appointee for representation on a case is also established in this Chief Justice Directive, section IV.D. This maximum includes appointee fees (both contract flat fees plus hourly, as applicable), allowable incidental expenses, paralegal, legal assistant, and law clerk time.
- 1) If there are unusual circumstances involved in the case and the appointee determines that additional work must be completed, which will create fee charges over the maximum allowed, pre-approval for fees in excess is to be obtained by submitting a Motion to Exceed the Maximum to the presiding judge/magistrate. (While there may be exceptions in which pre-approval is not possible before additional work is performed, seeking pre-approval should be the norm.) If satisfied that the excess fees are warranted and necessary, the presiding judge/magistrate should approve such motion. The District Administrator (or designee) should deny further payment unless accompanied by a Motion to Exceed the Maximum and an order granting the Motion by the presiding judge or magistrate.
 - 2) The Motion to Exceed the Maximum must cite the specific special and extraordinary circumstances that justify fees in excess. The judge or magistrate, in his or her discretion, may grant approval with an Order for Fees in Excess which provides a maximum up to 150% of the established maximum as outlined in section IV.D. of this Chief Justice Directive. A subsequent Motion to Exceed Maximum must be submitted for the same appointment if total fees are expected to further exceed the maximum established by the judge or magistrate.
- C) **All hourly court appointees and investigators must submit invoices using CACS, or a JDF 207, as applicable, to the court within six months of the earliest date of billed activity. All flat fee appointees must submit invoices within two months of the appointment, or within two months after an event that requires payment of an additional flat fee. Any court appointee or investigator desiring to request an exception to the six-month or two-month rule based on unusual circumstances shall make such request in writing to the Director of Financial Services at the SCAO, or the Director's designee, whose decision concerning payment shall be final.** Before an exception will be considered, the request must detail the extraordinary circumstances concerning a bill or portion of a bill wherein the activity does not fall within the six-month or two-month rule.

- D) The District Administrator or his/her designee will carefully review all hourly payment requests submitted for approval. To assist in this review, attorneys, other appointees and investigators must submit a detailed itemization of in-court and out-of-court hours with each request for payment as outlined in Procedures for Payment of Fees and Expenses, Attachment E. Authorization for payment is not automatic, and the District Administrator (or designee) must be satisfied that the number of hours billed and expenses charged are appropriate and necessary for the complexity of the issues involved. If there are questions concerning the reasonableness of the bill, the appropriate judge or magistrate will be consulted. If reimbursement to the state is to be ordered, the District Administrator or his/her designee shall forward the JDF207 to the appropriate judge for an Order for Reimbursement.
- E) Requests by appointees for reimbursement of expenses must include itemized statements and accompany the request for payment. In addition, such requests must comply with Maximum Hourly Rates/Maximum Fees Per Appointment as set forth in sections IV.C. and IV.D. of this Chief Justice Directive. When practical, a paralegal or legal assistant should be used for tasks that require legal expertise but can be done more cost-effectively by an assistant, such as drafting court motions or performing some legal research. The billable hourly rate for a paralegal or legal assistant time is found in section IV. C. The Judicial Department does not pay for the time of administrative support staff. Therefore, charges for time spent on administrative activities, such as setting up files, typing, copying discovery or other items, faxing documents, making deliveries, preparing payment requests, , and mailing letters are not reimbursable costs. Attorneys are expected to have sufficient administrative support for these activities.
1. Certain court costs are paid individually by the appointing court (not SCAO) with prior court approval. The appointing court pays court costs incurred by counsel. Counsel, other appointees, or investigators should submit the bills for items listed below directly to the local court and should not include these costs for reimbursement on the Request for Payment form (JDF207).

Costs Paid Locally by the Individual Court

- Cost of subpoenas;
 - Fees and expenses of witnesses;
 - Service of process;
 - Language interpreters;
 - Mental Health examinations/evaluations;
 - Transcripts;
 - Discovery Costs (including: LexisNexis research charges, medical records, etc.)
2. Court-appointed counsel and investigators may request reimbursement for certain reasonable out-of-pocket expenses that are incurred on behalf of their clients. The expenses below may be claimed on the Request for Payment form (JDF207) or using CACS.

Other Allowable Expenses

- Copy charges at the rate of \$0.10 per page (specify the number of copies made);
- Mileage at the rate defined by §24-9-104 C.R.S. (the actual number of miles must be specified for each trip);
- Long-distance telephone calls at cost (if total billing exceeds \$50, it must include a copy of the telephone bill with the following information highlighted date, phone number, and charges);

Other Allowable Expenses, cont.

- Postage at cost (regular 1st class mail charges);
- Reimbursement for delivery and express mail charges are only reimbursable for a case on appeal. A receipt or invoice for these charges must be attached to the order for payment;
- Requests for payment of overnight travel or out-of-state travel require prior authorization by the court and must be in accordance with state travel regulations as described in the Travel section of the Colorado Judicial Department's Fiscal Policies and Procedures manual. Out-of-state travel expenses incurred by the appointee shall be submitted to the court using form JDF207 with the appropriate copies of travel receipts included.

3. The following items are not authorized for payment or reimbursement.

Non-Allowable Expenses

- Phone calls when no contact is made (i.e., no answer, client not available or message left to call back, etc.);
 - Fax charges;
 - Parking Fees;
 - Items purchased for indigent (or other) persons represented which includes meals, books, clothing, and other personal items;
 - Administrative activities (as previously discussed);
 - Electronic filing fees for which state funded counsel appointments are exempt;
 - Any other cost or expense not authorized under Colorado law or Chief Justice Directive for payment by the state or reimbursement to counsel or other party.
- F) In any case in which a payment has been made to the attorney by a party who is later determined to be indigent, the state will reimburse the attorney for the total number of hours expended on the case, less any payments received from the party for fees incurred prior to the determination of indigence. The payment calculation is at the allowed Chief Justice Directive and/or Chief Justice Order hourly rate applicable to when the activity occurred.
- G) Attorneys shall maintain records of all work performed relating to court appointments and make all such records available to the Judicial Department for inspection, audit, and evaluation in such form and manner as the Department in its discretion may require, subject to attorney/client privilege.
- H) The Judicial Department will review and respond promptly to any question or dispute concerning a bill received, submitted, or paid. However, due to research time and record retention limitations, there is a time restriction of two years for billing questions and disputes. The two-year restriction starts from the activity date (or date of service) that is in question. For prompt resolution concerning questions or disputes concerning hourly or contract payment requests, all questions and disputes must be directed to the local court or State Court Administrator's Office immediately when issues arise.

Judicial Paid Appointments
*** Procedures for Payment of Fees and Expenses ***

GENERAL INFORMATION

These procedures apply to requests for payment of fees and expenses for court-appointed counsel, other appointees, and investigators paid by the Judicial Department on an hourly basis. Payment requests shall be submitted via the Department's online CAC System (CACS) in accordance with the policies and procedures set forth by the State Court Administrator's Office or, if an exception has been granted pursuant to Section IV.A.3. of this Chief Justice Directive, by using the standardized "Colorado Judicial Department Request and Authorization For Payment of Fees" form JDF207 (Judicial Department Form). Completion, including attachments, should adhere to the procedures described below. Requests for payment that do not include the necessary information will be returned to the appointee or to the court for completion or correction.

All appointees, both hourly and contract, who have not yet received payment from the Judicial Department must submit a completed W-9 form and, if applicable, an "Authorization to Pay a Law Firm" form before a payment can be issued. Payments are issued/submitted to whomever the attorney has authorized and approved on W-9 and "Authorization to Pay a Law Firm" forms. Therefore, if an attorney is no longer with the law firm indicated on a prior W-9 and/or Authorization to pay a Law Firm, he/she must complete a new form(s) and submit them to the Financial Services Division at SCAO. The forms are available from the court or from the Financial Services Division by calling (303) 837-3639.

To change only the mailing address, send the address change to the Colorado Judicial Department, Financial Services Division, 101 W. Colfax, Suite 500, Denver, CO 80202, or call for e-mail instructions.

Billing for Representation of Client with Multiple Cases: When billing for multiple cases in representation of the same client (i.e., companion cases), the appointee should work with the Financial Services Division at the State Court Administrator's Office to ensure the appointments/cases are designated as "concurrent" for billing purposes. Appointees must use the "Concurrent Appointment Notification" form, which is available from the Financial Services Division upon request. This applies to situations in which activity occurs simultaneously in the representation of the party across the multiple cases (example: the appointee attends a single court hearing during which more than one of the client's cases is discussed) and allows for the activity to be billed once via a "master" case. Cases in which the appointee's activity does not overlap multiple cases should not be billed concurrently, and should instead be billed by submitting separate invoices for each respective case.

When an attorney is appointed to continue on a case for the purposes of appeal, payment shall be on an hourly basis even if the original appointment was on a contract, flat fee basis.

A. PROCEDURES FOR BILLING

1. Detail of Itemized Billing

Time sheets must be attached to the JDF207 to support the summarized hours billed. (If CACS online billing is used, the detail is entered in this system.) Time must be described in sufficient detail to justify the amount of time spent on the activity. Time reported must include all time spent between the beginning and ending dates of the billing and must be in chronological order. Time sheets must be legible – preferably typed. Expenses must be described. A sample itemization is shown on the next page.

Rates may vary pursuant to Chief Justice Directive or Order. The appointee should contact the local district court, State Court Administrator's Office or visit the web site at www.courts.state.co.us if there is a question concerning the current authorized rates.

- a. The billing detail and itemization needs to include date, distinguish between out-of-court and in-court time, and a description of service performed. Time must be billed in *tenths* of an hour using the decimal system. One-tenth of an hour is equal to six (6) minutes. For example, 12 minutes is charged as 0.2 hours.
- b. Mileage itemization must include the date of the trip, the purpose of the trip, and the number of miles traveled for each trip.

2. Other Attachments

- a. Investigators must include the order of appointment appointing the attorney for whom the investigator is working, the court's order authorizing an investigator, and the amount of expenses the investigator may incur.
- b. If the total fee request (including past payments and the current invoice) exceeds the maximum fee allowed by this Directive, a copy of the court's order authorizing fees to exceed of the maximum must be submitted. Submitting this copy once is sufficient.
- c. If total expenses exceed \$50, all receipts or invoices for those expenses must be submitted.
- d. All receipts for any expenses outside of the guidelines and an explanation for the additional costs must be submitted.

John Sample, Attorney at Law

Date	Activity	In-court	Out-of-court	Paralegal
07/06/14	Court – temp. protection custody hearing	0.4		
07/06/14	Conf with client to discuss hearing		1.1	
07/05/14	Review social services report		0.5	
07/09/14	Court appearance, review hearing	0.3		
07/10/14	Meet with client to discuss permanency plan		1.0	
07/11/14	Prepare motion to reconsider placement			0.2
09/07/14	Travel to Canon City Prison (57 miles)		1.4	
09/07/14	Conf. with client and Social Services		1.0	
09/07/14	Prepare motion for placement			0.2
09/14/14	Hearing concerning motion on placement	0.3		
Dates of service 07/06/14 – 09/14/14 Total hours		1.0	5.0	0.4

SUMMARY OF FEES	Activity:	
	6.0 hours @ \$75 per hour	\$450.00
	0.4 hours @ \$30 per hour	\$12.00
	TOTAL FEES	\$462.00
TOTAL MILEAGE	57 miles @ \$0.50 per mile/(or rate defined by §24-9-104 C.R.S.)	\$28.50
OTHER EXPENSES	Copies: Social Services report = 12 pgs @ \$0.10	\$1.20
	Postage	\$0.44
	TOTAL OTHER EXPENSES	1.64
	TOTAL BILLING	\$492.14

COMPLETION OF THE JDF207 (Hourly Billing if not billing online)

Completion of the JDF207 form is required by the Judicial Department for payment of court appointees appointed on an hourly basis unless the appointee has been authorized to invoice using CACS (online system). The appointee should keep a copy and submit the original plus one copy. The form is in triplicate and includes copies for the appointee, the court file, and the State Court Administrator's Office (SCAO). All applicable sections of the form should be completed as indicated in the instructions. Attach all required documents before submitting to the local court. All incomplete Requests for Payment will be returned to the appointee for correction(s).

Section I.

Enter the case number of the charges being billed. When billing for multiple cases in representation of the same client (i.e., companion cases), enter all applicable case numbers. If the bill is for appellate charges, include the appeal case number and the original case number being appealed.

Include the name(s) and number of persons represented, the name of the case, applicable county, name of appointing judge/magistrate and current judge/magistrate. Indicate if the case jurisdiction is district or county.

Section II.

Enter all applicable appointee information, attorney registration number, name, complete address, phone, fax, e-mail. If the address has changed, check new address box. For more information concerning changes, review the General Information section in this attachment.

The Social Security Number or Tax Id Number must be included on each JDF207 (for more information concerning authorized payee changes, review the General Information section in this attachment).

Indicate the appointment date, if you are an original or substitute appointee, if the case has or has not gone to trial, if the case was originally under contract. If originally under contract, explain why an hourly bill is being submitted and the date circumstances changed resulting in hourly billing.

Section III.

Indicate the type of representation provided.

Section IV.

Indicate the authority/statute title allowing for the appointment. This is indicated on the original appointment form/order.

Section V.

The indigency status of the person represented must be noted. If the person is found indigent, use the date of determination. If the person is not indigent, indicate which statement is applicable to the party represented and if reimbursement is to be ordered by the presiding judge. This information is usually included in the order of appointment or may be found in the application for court-appointed counsel (form JDF208) or another affidavit of indigence, as requested by the court.

Section VI.

Under this section all charges are to be summarized.

For the activity *from date*, enter the first chronological date of activity billed from the itemized detail document. For the activity *to date*, enter the last chronological date in which activity occurred as itemized in the detail document. Group the *start* and *to date* for activities in which the effective date of the maximum rates as set by Chief Justice Directive or Chief Justice Order are the same.

Instructions for summarizing attorney hours and fees are located on the reverse side of the Request and Authorization for Payment of Fees form (JDF207) #5.

For non-attorney billing activity, summarize all non-attorney hours by category. Next, apply the maximum rate as set by Chief Justice Directive or Chief Justice Order and enter the total charge

requested in the right column. Summarize all expenses by type, apply the correlating rates and/or receipts and enter the total charge per category. Charges must correspond to attached receipts.

Total all charges and calculate total amount billed.

Include all prior amounts invoiced for the appointment in the “Total Amount Previously billed” line, (excluding the current request).

Determine the cumulative total of fees charged by appointee for the case by adding the “Total Amount Previously billed” plus the current request amount. If the cumulative total is over the authorized maximum, check the indicator box “Exceeds allowed maximum”. Include the Motion to Exceed Maximum and the approved Order to Exceed Maximum (if possible, this should be judge/magistrate pre-approved and not requested after services are performed).

Appointee signature and date are required.

If this is the final bill, check the “Final Bill” box.