

To: Private Assigned Counsel

From: Nancy Bennett, Deputy Chief Counsel, Private Counsel Division
Mike Dsida, Deputy Chief Counsel, Children and Family Law Division
Stan Goldman, Director, Mental Health Litigation Unit

Re: Spending reductions for FY09 adopted by the Committee for Public Counsel Services

Date: November 25, 2008

At its meeting on 11/19/08, the Committee considered proposals which had been prepared by CPCS staff in response to a request by the Patrick Administration for cost control measures to be implemented for this fiscal year. The Committee took the following actions, to be implemented effective 12/1/08:

- (1) The Committee voted to eliminate all compensation for attendance at required CLE programs. Although this will be effective December 1, 2008, attorneys who have registered and paid for required or approved CLE programs on or before November 30, 2008, will be compensated for their attendance at the hourly rate of \$60, as long as the attendance information is submitted to CPCS by December 31, 2008, or within 30 days after the program takes place, whichever is later. As was the case under the former CLE compensation policy, attorneys may receive compensation for no more than eight hours of required CLE for this fiscal year.
- (2) Although legal services funded through CPCS are intended for indigent people only, sometimes counsel has been assigned for "bail only" when a non-indigent person appeared for arraignment without retained counsel. The Committee voted on 11/19 to bar such expenditures for non-indigent representation by declining "bail only" assignments except in cases where the client is indigent but counsel for the case in chief is not available at the court. This restriction does not apply in Juvenile Court, as children may be unable to challenge effectively an erroneous determination of non-indigence.
- (3) The Committee reduced the maximum number of hours that attorneys can bill per day for waiting time in court from three to two. This change applies to court appearances on or after December 1. The existing limit of one hour waiting time per case per day was not changed.
- (4) The Committee voted to eliminate compensation for time and reimbursement for mileage and expenses for the first thirty miles of all trips to and from court, absent a waiver by the appropriate Deputy Chief Counsel or Director of Mental Health Litigation based upon a compelling need for representation in a particular underserved court. This restriction applies to travel to and from court occurring on or after December 1; other case related travel (e.g., for client visits and investigations) continues to be fully compensable.
- (5) CPCS will defer an increase in the mileage reimbursement rate adopted by other state agencies pursuant to collective bargaining agreements.
- (6) CPCS will propose reductions in the payment of very late bills by means of a statutory change in c.211D, §12, affecting bills for services in FY09.

For a fiscal-year end bill for services provided in FY09, payment would be as follows:

After:	August 1, 2009:	90% (same as now)
	September 1	85%
	October 1	80%
	November 1	75%
	December 1	70%
	January 1, 2010:	60%
	February 1	50%
	March 1	40%
	April 1	30%
	May 1	20%
	June 1	10%
	July 1 and after	zero

Under the Committee's legislative proposal, the Chief Counsel could waive the reduction in whole or in part, upon a determination that the delay in bill submission was due to extraordinary circumstances beyond the control of the attorney.

The following changes apply to experts retained on or after December 1.

(7) The Committee voted to reduce by 5% the maximum hourly rate that may be billed by most Indigent Court Cost vendors. This reduction would not apply to court reporters, investigators, and summons delivery services.

(8) The Committee adopted the proposal to limit the maximum hourly compensation for travel by Indigent Court Cost vendors to the hourly rate being earned by counsel assigned on the case, with the proviso that this restriction may be waived if required in a particular case with prior approval by the appropriate Deputy Chief Counsel or the Director of Mental Health Litigation.

(9) The Committee voted to require prior approval by the appropriate Deputy Chief Counsel or the Director of Mental Health Litigation when counsel wishes to retain an expert or other Indigent Court Cost vendor whose one-way travel to the court in which the case is pending will exceed 100 miles.

Please feel free to contact us if you have any questions about the implementation of these policy changes.

As always, thank you for your dedication and commitment to our clients, particularly during these difficult times.