

**STATE OF MAINE
SUPREME JUDICIAL COURT**

PROPOSED ADMINISTRATIVE ORDER JB-05-5 (A. __-16)

**REVISED FEE SCHEDULE FOR GUARDIANS AD LITEM AND COURT
APPOINTED WORKERS' COMPENSATION ATTORNEYS IN ALL COURTS**

Effective: _____, 2016

This order amends JB-05-5 (A. 9-11), signed and effective September 19, 2011.

The following schedules and administrative procedures are adopted in all courts for all court-appointed guardians ad litem (GALs) in District Court and workers' compensation attorneys submitting bills on or after the effective date of this order.¹

I. HOME COURT

Each rostered GAL shall designate his/her home court or courts by notifying the Administrative Office of the Courts in writing. Absent unusual circumstances, a rostered GAL shall not be appointed to cases in courts other than his/her home court(s). A rostered GAL will not be reimbursed for travel time or mileage to and from his/her designated home courts.

II. HOURLY RATE FOR GALS

GALs shall be paid the same hourly rate paid to attorneys appointed to represent parents in child protection proceedings. GALs shall prorate all time among multiple cases when such time involves actions in common with other cases (e.g., travel, waiting, and research time). When a GAL is assigned, the court will make every effort to reduce costs by scheduling cases to limit the number and length of court appearances.

¹ The determination of indigency, the assignment and compensation of all other counsel, and all like matters shall be governed by the provisions of Rule 88 of the Maine Rules of Civil Procedure, incorporating by reference Maine Rules of Criminal Procedure 44, 44A, 44B, and 44C.

III. ITEMIZED EXPENSES FOR GALs

- A. **Itemization of Claims.** All claims for expenses must be itemized.
- B. **Routine Office Expenses.** Routine office expenses are included in the hourly rate and will not be reimbursed. Routine office expenses include but are not limited to postage, telephone, cell phone, fax, office overhead, utilities, secretarial services, routine copying, parking, and office supplies.
- C. **Non-Routine Expenses.** Non-routine expenses such as reasonable long distance calls (if billed by a phone carrier) collect phone calls, tolls, and fees paid to third parties such as witness, subpoena and service fees that do not exceed actual cost, may be reimbursed. Fees for service of process by persons other than the sheriff shall not exceed those allowed by 30-A M.R.S. § 421.
- D. **Travel Reimbursement.** Mileage will be reimbursed at the applicable State rate. A GAL will not be reimbursed for mileage for travel to and from his/her designated home courts. The Chief Judge or designee must approve in writing all out-of-state and overnight travel prior to the expense being incurred. Use of the telephone, video equipment, and e-mail in lieu of travel is encouraged as appropriate.
- E. **Third Party or Extraordinary Expenses.** Pre-approval by the court is required for non-routine expenses such as payment to third parties (e.g., investigators, medical and psychological experts, testing, transcripts, depositions) or extraordinary (more than \$100) non-routine expenses. Funds for third-party services and extraordinary expenses will be provided by the court only upon (1) written motion; (2) a sufficient demonstration of reasonableness, relevancy, and need; and (3) a demonstration that the third-party or other expense is not one that is, in the usual course, the responsibility of the State or counsel for one of the parties. A GAL is not required to advance funds to investigators or other service providers.
 - 1. If the court approves fees for an expert or an investigator the GAL is responsible for the following:

- (a) Assuring the court has approved a motion for funds before any services are engaged;
 - (b) Providing the service provider with clear instructions as to his or her responsibilities in the case;
 - (c) Notifying the service provider that there is a limit on the amount of funds approved and that the court will not approve payment of any charges in excess of the approved amount;
 - (d) Notifying the service provider that the arrangement for services is between the GAL and the service provider; the service provider is not authorized to act as an agent of the court; and any agreement with the GAL is not to be construed as an appointment by the court or endorsement of services; and
 - (e) Forwarding any statement for services to the clerk for processing and payment. The GAL must state whether the services were satisfactory and that all applicable reports and other information have been received.
2. The court may set a maximum fee and an hourly rate for a service provider. Amounts approved by the court are deemed to include reasonable expenses, including but not limited to, office and out-of-pocket expenses, mileage, travel time, preparation of reports, and appearances at court.

IV. MAXIMUM HOURS

Invoices submitted for time greater than the applicable maximum total hours will not be approved for payment except as approved by the Chief Judge of the District Court or designee.

A. **Cases in the District Court.**

1. GALs shall only be reimbursed for activities authorized by the GAL's order of appointment, court rule, or subsequent

orders of the court.

2. The maximum number of hours for which a GAL will be reimbursed in a child protection case is as follows:
 - (a) For each “legal stage²” of a child protection case, except a contested termination of parental rights hearing, the GAL may be reimbursed up to a maximum of 15 hours;
 - (b) For a contested hearing on a petition for termination of parental rights the GAL may be reimbursed up to a maximum of 21 hours.
3. The maximum number of hours for which a GAL will be reimbursed in cases other than a child protection case is at the discretion of the presiding judicial officer handling the case, and will be designated in the court’s order of appointment.
4. A GAL must obtain prior court-approval to be paid for time exceeding the allowable or court ordered maximum hours.
5. A child protection voucher that exceeds the cap by more than five hours, without prior approval, absent extraordinary circumstances, will not be paid.

B. Appeals to the Maine Supreme Judicial Court (Law Court).

1. Appeals by Court-Appointed GALs
 - (a) The Law Court will not pay fees to a GAL for work performed on an appeal, whether commenced by the GAL or another party, unless the GAL files, within fourteen days after the Clerk of the Law Court issues the docketing notice, a motion for pre-approval of GAL fees. The Court will grant the motion if the

² A legal stage of a child protection case is defined as follows: when an Order is issued after a summary preliminary hearing, jeopardy hearing, judicial review and/or permanency hearing, a cease reunification contested hearing, a termination of parental rights hearing, or a contested permanency guardianship or contested child placement hearing.

appeal raises a meritorious issue and no other party will adequately present the GAL's position to the Court.

- (b) For an appeal for which the GAL has obtained pre-approval for fees, the Law Court will set a fee of \$60 per hour for no more than nine hours of work on the appeal unless the GAL files, within twenty-one days after the date the appellee's brief is filed or due to be filed, an itemized statement of the time the GAL expended on the appeal. If the GAL timely files the itemized statement, the Court will set a fee at a rate of \$60 per hour for any time reasonably expended.

2. Appeals by Workers' Compensation Attorneys

- (a) For cases in which the date of injury is prior to June 5, 1985, the Court will award a standard fee of \$750 and reasonable out-of-pocket expenses.
- (b) For cases subject to the "prevail rule" which was in effect from June 5, 1985, through December 31, 1992, counsel must file an itemized statement with the Court within twenty days of the final disposition of the appeal.
- (c) For cases arising pursuant to Title 39-A (which became effective on January 1, 1993), the Court will not award any counsel fees.
- (d) Workers' Compensation Attorney Vouchers must be submitted within thirty days after final disposition. Vouchers submitted after the thirty-day period will not be paid.

V. ADMINISTRATION OF PAYMENT

- A. All invoices in child protection cases must be submitted to the court of disposition using the current court-approved voucher form and must comply with all instructions on the form. The clerk, deputy clerk, or clerk's designee at the direction of the Chief Judge may approve vouchers in child protection cases submitted for 10 hours or less and/or

contain no more than \$75 in expenses. Vouchers for time over 10 hours and/or which contain more than \$75 in expenses must be approved by the judicial officer who handled the case and the Chief Judge or designee.

- B. All vouchers must be submitted within 90 days after the completion of each legal stage. Invoices submitted more than 90 days after completion of a legal stage will not be paid.
- C. All GAL vouchers must include a detailed and itemized statement of services and expenses. Detailed billing shall be accounted for in .10 of an hour increments (.1 = 6 minutes or less, .2 = 6 to 12 minutes). The purpose for each time entry must be self-evident or specifically stated.
- D. Requests for fees for appeals to the Law Court shall be submitted to a Justice of the Law Court.
- E. Copies of receipts for payments to third parties must be fully itemized and submitted with the required invoice or voucher.
- F. All expenses claimed for reimbursement must be fully itemized and submitted with the required invoice or voucher.
- G. The Chief Justice of the Superior Court and the Chief Judge of the District Court are hereby authorized to establish such procedures as are necessary to carry out the provisions of this Order.

Proposed to improve organization throughout; to employ the shorthand “GAL” instead of “guardian” throughout; to identify the Administrative Office of the Courts as the entity to notify of any home court designation(s); to refer to “rostered” GALs in section I; to change the hourly rate for court appointed GALs to correspond with the hourly rate established for attorneys appointed to represent parents in child protection proceedings; to specify that when a GAL is assigned, the court will make every effort to reduce costs by scheduling cases to limit the number and length of court appearances; to clarify the distinctions between routine, non-routine, and third-party or extraordinary (more than \$100) expenses; to clarify that a GAL is not required to advance funds to investigators or other service providers; to detail the GAL’s responsibilities when a court approves fees for an expert or investigator; to remove references to responsibilities that are now governed by the Maine Rules for Guardians Ad Litem; to specify that for each “legal stage” of a child protection case, except a contested termination of parental rights hearing, the GAL may be reimbursed up to a maximum of 15 hours; to define “legal stage”; to specify that for a contested hearing on a petition for termination of parental rights the GAL may be reimbursed up to a maximum of 21 hours; to authorize a clerk, deputy clerk, or clerk’s designee at the direction of the Chief Judge, to approve vouchers in child protection cases that are submitted for 10 hours or less and/or contain no more than \$75 in expenses; to provide that vouchers for time over 10 hours and/or which contain more than \$75 in expenses must be approved by the judicial officer who handled the case and the Chief Judge or designee; to provide that all vouchers and invoices must be submitted within 90 days after the completion of each legal stage or else they will not be paid.

Historical Derivation of JB-05-5

Revised Fee Schedule For Guardians Ad Litem and Court Appointed Workers’ Compensation Attorneys In All Courts

AO JB-05-5 (A. 9-11), dated and effective September 19, 2011

Signed By: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Revised Fee Schedule For Guardians Ad Litem and Court Appointed Workers’ Compensation Attorneys In All Courts

AO JB-05-5 (A. 8-10), dated July 21, 2010, effective August 1, 2010

Signed By: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Revised Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5 (A. 7-08), dated June 27, 2008, effective July 1, 2008

Signed by: Leigh I. Saufley, Chief Justice. Maine Supreme Judicial Court

Revised Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5 (A. 1-07), dated January 22, 2007, effective January 1, 2007

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5 (A. 4-06), dated April 13, 2006, effective April 14, 2006

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5 (A. 1-06), dated December 19, 2005, effective January 1, 2006

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5, dated June 29, 2005, effective January 1, 2006

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Fee Schedule for Court-Appointed Counsel in All Courts

AO JB-00-01, dated June 5, 2000 (which replaced SJC-226, SJC-318, and SJC-406)

Signed by: Daniel E. Wathen, Chief Justice, Maine Supreme Judicial Court; Andrew M. Mead, Chief Justice, Maine Superior Court; and Michael N. Westcott, Chief Judge, Maine District Court

ADDENDUM TO ADMINISTRATIVE ORDER SJC-226/318/406 Effective: July 1, 2000