

B3: Better Billing Bulletin

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ICON (Integrated Court Offences Network) data

LAO now has access to Integrated Court Offences Network (ICON), a tool LAO uses to confirm billings and select accounts for audit where billings are unsubstantiated. In situations where ICON does not support what was billed, LAO may request court information or other means of verification from the lawyer.

REMINDER: Billing disbursements

Please do not include HST in disbursement accounts. LAO automatically pays HST on the amount billed.

Billing LAO for a contested trial

LAO is often asked questions about billing block fee accounts and contested trials. With the introduction of the new tariff enhancement for summary conviction trials, LAO is taking this opportunity to clarify how and when to bill a contested trial.

What is a contested trial?

A contested criminal trial is a court proceeding where the accused is arraigned, enters a “not guilty” plea and the Crown calls evidence to prove, beyond a reasonable doubt, that the accused committed the criminal offence as charged.

Defence counsel “contests” the Crown’s case, usually through challenging the admissibility of evidence, cross-examination of crown witnesses, calling defence evidence, and making submissions to the court that the Crown has failed to prove beyond a reasonable doubt that the accused is guilty of the criminal offence as charged.

A contested trial must be conducted in order to bill “contested trial” in your *Legal Aid Online* account.

Plea or withdrawal during the course of contested trial – client pleads not guilty on arraignment

You may bill a contested trial in your Legal Aid Online account if, on the trial date, the client was arraigned, entered a plea of not guilty, and the contested trial commenced with the Crown calling some evidence, and then (often after a midtrial Crown or judicial pretrial) the authorized criminal charges were resolved by way of guilty plea or withdrawal.

Not a contested trial – plea arrangements or all criminal charges withdrawn

You may **not** bill a contested trial, if you arrive at court on the scheduled trial date and prior to the trial commencing:

- the Crown withdraws all charges
- your client enters a guilty plea to all charges; these proceedings are to be billed as a guilty plea.
- your client enters a guilty plea to one or more charges and one or more charges are withdrawn; these proceedings are to be billed as a withdrawal.
- your client enters a “not guilty plea” to the charge but “guilty” to a lesser included offence; these proceedings are to be billed as a withdrawal. If the plea is to a related charge of the same seriousness, the proceeding is billed as a guilty plea.

Other proceedings

The following proceedings are not considered contested trials and may not be billed as a contested trial:

- “No evidence” arrangements where your client pleads not guilty, no evidence is called and the charge is dismissed;
- Adjournments on a scheduled trial date; this adjournment date may not be included as an ‘extra day of proceeding’ where a contested trial subsequently becomes billable. Contested adjournment applications and contested material witness warrant applications may not be entered as contested trials.
- Applications to be removed as counsel of record before the trial commences
- Applications to strike or quash a guilty plea or where a guilty plea is struck or quashed with a mistrial

On block fee eligible certificates, when counsel attends in court to schedule a trial for a

future date, counsel must indicate the scheduling date as the date upon which the criminal charges were set down for trial (not the future trial date).

After criminal charges are set down for trial, the criminal proceeding must be billed on the hourly tariff.

Prior to trial, counsel may bill an interim hourly account for trial preparation and may indicate “no plea entered” as the outcome. Counsel may not bill LAO for a contested trial that has not been conducted, but is anticipated to take place in the future.

Multi-day summary conviction trials

NEW: For summary conviction trials on certificates issued on or after November 26, 2012 new tariff rules apply if the matter proceeds beyond the first court date. For each subsequent day, counsel may bill up to 4 hours preparation time plus court attendance. See the Tariff & Billing Handbook for details

REMINDER: Billing deadlines

Certificate billing deadlines are established by section 39(1) of Regulation 106/99 of the *Legal Aid Services Act*. Section 39 (1) provides that:

- Accounts must be submitted no later than six months after the first anniversary of the issue date of the certificate, and must include all fees and disbursements incurred during the 12-month period following the issue date of the certificate.
- Accounts are due after each subsequent anniversary of the issue date of the certificate on the same basis.

These are the minimum billing requirements. Counsel may submit accounts more frequently. However, if you submit an interim account after a few months of work, you must send another bill for all additional work and disbursements incurred up until the anniversary date. The additional account must be received no later than six months after the anniversary date.

It is important for accounts to be submitted and paid promptly. In exceptional cases, discretion may be exercised to permit an extension to the billing deadline to allow payment of a late billed account.

Note: Make sure you include an exemption request when submitting an account past the billing deadline. Your account will not be considered for payment otherwise.

Billing paralegals and students

The tariff rates include the services of articling students and law clerks.

Paralegals and other students (who aren't articling students under formal articles of clerkship) are billed as law clerks.

UNDER DEVELOPMENT: Billing reminder notices

LAO is currently developing billing reminder notices and will provide electronic notification to counsel on upcoming billing deadlines for open certificates.

Monthly notices will advise which certificates are about to reach an anniversary, and which are about to reach a billing deadline. This will aid solicitors in timely billings and reduce late accounts and the administrative overheads for those accounts.

COMING SOON: Enhancements on *Legal Aid Online*

In late February, LAO will introduce further enhancements to *Legal Aid Online* to support more accurate account submission.

The primary objectives of the enhancements are to:

- support accurate billing of accounts for faster payment
- reduce inadvertent billing errors that cause accounts to go into exceptions creating delays in payment
- provide messages and enhanced help text to support lawyers with accurate billing
- reduce barriers to online account submission
- reduce work efforts for LSP to manage inadvertent billing errors so attention can be focused on other account processing matters

Questions?

Please let us know if you have questions or if there are topics you'd like to see us cover by contacting the Lawyer Service Centre at pl-lsc@lao.on.ca



LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO