

B3: Better Billing Bulletin

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LAO expanding 2nd Judicial Pre-Trial (JPT) pilot project

Legal Aid Ontario (LAO) is working with the Ontario Court of Justice, criminal defence bar and the Ministry of the Attorney General on a pilot project to fund matters in participating Ontario Court of Justice locations where a second JPT or substantially similar event has been scheduled.

The pilot project now has expanded its scope to include a second JPT that is conducted prior to a preliminary inquiry. Eligible matters may receive an authorization for an additional tariff maximum of two hours.

The pilot runs until March 31, 2018 and is limited to 15 locations across the province:

1. Brampton
2. College Park
3. Oshawa
4. Etobicoke
5. Halton (Milton)
6. London
7. Newmarket
8. North York
9. Old City Hall
10. Ottawa
11. Scarborough
12. Sudbury
13. Thunder Bay
14. Timmins
15. Windsor

For further information on the pilot refer to the LAO in brief Sept 21, 2016.

New duty counsel forms

LAO has updated three main duty counsel forms for use by staff and per diem duty counsel. The following updated billing forms are now available on the LAO website in both French and English for your use:

- Duty Counsel Statement of Accounts
- Duty Counsel Statement of Accounts Legend
- Guaranteed Daily Rate Form

What Does This Mean for Duty Counsel?

The revised forms are now aligned with the online account; including the recent addition of the Aboriginal Self-Identification Question (ASIQ). These forms are intended to be printed and used as a worksheet to accurately record the information necessary to submit an online account. Please note there is no change to the requirement and process for submitting your accounts online.

Discretionary payments after an audit

Legal Aid's billing system allows lawyers to self-generate tariff entitlements according to their online selections. Dockets do not generate payments. Most accounts are paid by our automated billing system without prepayment scrutiny of the contents of lawyers' dockets and without review of discretion requests where the hours billed are within the self-generated tariff maximum. Accordingly LAO places a high level of trust in lawyers to bill accurately and to ensure that they are entitled to the payment for services and disbursements to which they are billing.

The appropriate time for counsel to request discretion is upon submission of their online account, and where the account is not within tariff, the payment will be settled and discretion considered by the Lawyer Services and Payments Department.

In cases where counsel has self-generated a tariff greater than that to which counsel was actually entitled, hours billed in excess of the applicable tariff will have been automatically improperly paid as billed without recourse to discretion. Where the Investigations Department or the ACU has made a finding that an account was improperly paid, pursuant to s.31 of the *Legal Aid Services Act, 1998* a determination of an overpayment will be made and the overpayment will be recovered.

Discretion requested after an account has been determined to have been overpaid by the Investigations Department or the ACU will not be considered.

For further information please refer to the Legal Aid Services Act and Regulations:

- LASA section 31
- O/Reg 106/99 sections 44 and 45
- O/Reg 107/99 Notes to Schedule 1 and 2

Dockets tips for refugee certificates

- Please ensure that your dockets describe the services you provided. The more detailed the description, the easier it is to determine if you are entitled to any additional tariff maximums and/or discretionary increases.
- Do not use docket templates with generic terms such as “preparation” or “research”. Insufficient details or vague descriptions may result in services being disallowed.
- Provide details with respect to attendances at the IRB. Your dockets should name the board member hearing the matter, indicate whether the hearing proceeded or was adjourned, and indicate whether a decision was given at the conclusion of the hearing.
- Adjournments at the IRB where no evidence was led or submissions made can only be billed as preparation time. Such attendances cannot be billed as court time. Details with respect to attendances are necessary to calculate the tariff correctly.
- Work done by agents, articling students, and law clerks should be clearly indicated in the dockets and identify the individual by name.
- Telephone calls must be itemized in the dockets.
- Correspondence can be itemized in the body of the docket or summarized and billed at 0.1 hour per letter at the end.
- Bill all services in tenths of an hour. For example 30 minutes = 0.5 hours, 2 hours and 48 minutes = 2.8 hours. Remember, if the time is 0.5 hours or more, times of day must be provided.

Minutes to tenths of an hour conversion chart

Minutes	Time
1-6	.1
7-12	.2
13-18	.3
19-24	.4

Minutes	Time
25-30	.5
31-36	.6
37-42	.7
43-48	.8
49-54	.9
55-60	1.0

- Dockets must be in chronological order.
- Disbursements should be itemized.

Sample docket for IRB matter

Client Name: XXX

Certificate Number: XXX

Date	Services	Solicitor #	From:	To:	Hours
06/24/2016	Introductory meeting with client and interpreter Ahmed Hussein to outline the claim process and discuss nature of claim with client	12345	7:00 p.m.	9:00 p.m.	2.0
06/30/2016	Review client's supporting and identity documents, port of entry notes, and narrative, and prepare BOC	12345	8:30 a.m.	11:40 a.m.	3.2
06/31/2016	Meet with client and interpreter Ahmed Hussein to review, amend and execute BOC and advise client on next steps.	12345	11:00 a.m.	1:00 p.m.	2.0
06/31/2016	Fax BOC to IRB. Provide copy to client.	Law clerk Pam Wall	1:00 p.m.	1:20 p.m.	0.3
07/25/2016	Phone call to Dr. Singh to book psychological evaluation. Phone call to client to give appointment details	12345	2:15 p.m.	2:25 p.m.	0.2

Date	Services	Solicitor #	From:	To:	Hours
08/05/2016	Meet with client and interpreter Ahmed Hussein to discuss personal documents, preliminary preparation of client for hearing	12345	3:30 p.m.	4:45 p.m.	1.3
08/06/2016	Conduct country research on state protection for victims of domestic violence in Somalia and credibility case law regarding omissions and port of entry notes	Student at Law Joe Smith	2:00 p.m.	4:00 p.m.	2.0
08/07/2016	Review client's psychological report	12345	9:00 a.m.	9:50 a.m.	0.8
08/07/2016	Review personal documents and prepare disclosure for hearing - send by courier	12345	3:00 p.m.	4:20 p.m.	1.3
08/08/2016	Copy disclosure and send by courier to IRB.	Law clerk Pam Wall	9:15 a.m.	9:45 a.m.	0.5
08/10/2016	Meet with client and interpreter Ahmed Hussein to review and prepare client for hearing.	12345	3:00 p.m.	5:00 p.m.	2.0
08/18/2016	Attend hearing with client. Board Member Joe Smith ill. Matter to be re-scheduled.	12345	8:45 a.m.	9:15 a.m.	0.5
9/14/2016	Meet with client and interpreter Ahmed Hussein to review and prepare client for hearing	12345	2:00 p.m.	3:15 p.m.	1.3
9/29/2016	Attend hearing before BM Joe Smith. Bench positive decision from Board Member Smith.	12345	8:45 a.m.	12:00 p.m.	3.3
Total 1	Total Lawyer Time - 12345	12345			17.9
Total 2	Total Law Clerk Time	Law clerk Pam Wall			0.8
Total 3	Total Student -at- law Time	Student at Law Joe Smith			2.0

More on costs and settlements

Information on lawyers' obligations to manage costs and settlements was outlined in the May 2016 B3: Costs, Settlements and Contribution Agreements. You are required to take all necessary steps to protect LAO's interest in the costs or settlement funds. As a further reminder, lawyers are asked to notify Lawyer Services and Payments as soon as possible if a client is awarded costs or a settlement. Do not wait until submitting an account to do so.

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

