

B3: Better Billing Bulletin

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LAO emergency COVID-19 certificate changes: section 47 recovery

(Information in Better Billing Bulletin Vol. 55 remains in full force and effect with respect to net costs (settlements) and section 47 of the *Legal Aid Services Act* (LASA).)

Legal aid applicants, new and existing, must once again sign a section 47 Direction regardless of a COVID accommodation. If an applicant did not complete a section 47 Direction during the COVID pandemic, LAO continues to secure its interest through the statutory charge on settlements and judgements. Statutory regulations allow LAO to waive recovery, while counsel or clients may request waivers in writing from our Lawyer Services and Payments department.

Interpretation during document finalization

As of December 1, 2020, even if not present, lawyers may bill interpreter time without prior authorization where an interpreter reads back draft legal documents in English or French to the client in the client's language. This is an exception to the rule in LAO's Disbursements Handbook limiting billing to client-lawyer meetings. To ensure payment, invoices must show when interpreters met clients for this purpose.

Prior authorization is still required for billing for an interpreter to attend a client's psychological assessment and other situations outside of client-lawyer meetings.

Interpreters doing legal work

Bill legal work done by an interpreter such as interviewing clients, completing forms or drafting a narrative without a lawyer present at the law clerk rate and not under the interpreter disbursement line. Law clerk time is payable under certificate preparation time at

one-third of the lawyer rate.

Immigration and refugee certificates

Where properly trained and supervised non-lawyer staff help prepare bases of claim (BOC), LAO's refugee panel standards require panel lawyers must:

- Personally interview clients about the contents of forms before having a client sign them
 - Ensure clients are satisfied that forms are complete, correct in every detail, and clearly understood before requesting they sign them
 - Give clients a complete copy of the signed forms as submitted to the tribunal
 - Discuss evidentiary requirements for cases with clients, and provide appropriate guidance about collecting such evidence, as well as timelines.
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Resumption of recoveries

After a temporary suspension, recoveries resumed November 23, 2020 through offsets to lawyer payments. As one of several supports for lawyers during the COVID-19 pandemic, in April&nbs;2020, Legal Aid Ontario postponed collection on recoveries identified in audits and investigations.

Bail reviews, youth bail *de novo* applications and detention (Myers) reviews

Effective immediately, when billing for a completed bail review, youth bail *de novo* application or detention (Myers) review, LAO no longer requires counsel to attend court to argue for a client's release, if the Crown consents to the accused's release, or variation of a recognizance. This applies whether consent is in Superior Court or if the matter transferred to the Ontario Court of Justice.

To bill for these applications, counsel must have authorization for a bail review, youth bail *de novo* application or a detention review, served and filed materials, and docketed for those services.

Disbursement tolerances

The online account page in *Legal Aid Online* has been updated to include the threshold amounts for the automated payment of disbursements. The threshold represents the cumulative amount allowed on the certificate.

In the past this information was not provided for all of the disbursements listed on the account page which made it difficult for counsel to determine if the disbursement portion of the account would be paid.

With this information counsel can now determine if their disbursement will exceed the threshold by adding the previous amount billed to the amount being billed on their new account. If the matter exceeds the threshold, counsel should attach a request seeking authorization for the amount above the threshold. This will ensure that LAO staff have the information to make a decision when the account goes under consideration which will avoid further delays in payment.

The inherent amount allowed for interpreters, both first hour and subsequent hours, remains at a cumulative total of 10 hours.

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

