



Block Fee Phase II Module 4

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Modules 1-3

Module 1

- Provided a brief introduction to Block Fees, its history, some of its benefits, and how block fees will work at a very high level.



Module 2

- Provided details regarding the types of cases (example: Summary Conviction 1) and types of charges (example: theft under) included in Block Fees Phase 2.
- Discussed charges and processes excluded from block fees.
- Defined the types of block fees (example: guilty pleas) and what is included in that type of block fee (example: preparation).



Module 3

- **Captures the most significant rules related to block fee certificates, billing, and payments.**



Module 4

- Provides more detail regarding the rules and the types of block fees discussed in module 3



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SECTION I - CASE CATEGORIES & CHARGES

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Block Fee Case Categories

Category		Example Charges*
Summary I	Includes all provincial and federal non-CCC offences and all summary conviction and Crown-option offences where the Crown proceeds summarily and the maximum sentence is six months	<ul style="list-style-type: none"> ▪ Assault ▪ Theft under ▪ Forgery and credit card offences ▪ Minor weapons offences
Summary II	Includes all Crown-option offences where the Crown proceeds summarily and the maximum penalty is greater than six months	<ul style="list-style-type: none"> ▪ Assault causing bodily harm or with a weapon ▪ Threatening death or bodily harm ▪ Breach of probation ▪ Cruelty to animals
Indictable	Includes all offences and Crown-option offences (except excluded charges) where the Crown proceeds by way of indictment	<ul style="list-style-type: none"> ▪ Aggravated assault ▪ Theft over ▪ Weapons trafficking ▪ Gambling offences
Excluded	<p>Very serious criminal charges or offences such as murder, terrorism offences, etc are excluded.</p> <ul style="list-style-type: none"> • paid under hourly tariff; <u>not</u> part of the block fee program 	<ul style="list-style-type: none"> ▪ Murder – first and second degree ▪ Kidnapping ▪ Child pornography offences ▪ Arson
	<p>Certain cases and processes are excluded from Block Fees as well as all non resolved matters</p>	<ul style="list-style-type: none"> ▪ YCJA cases ▪ BCM / CCR cases ▪ Miscarriage of justice reviews ▪ Appeals

*For a complete list please see the Tariff and Billing Handbook



Excluded Processes

- Excluded processes are paid under the hourly tariff
- Types of proceedings that are excluded include:
 - Big Case Management (BCM) / Complex Case Rate (CCR) cases
 - Appeals
 - Youth Criminal Justice Act (YCJA) matters
 - Dangerous Offender (DO) proceedings
 - Faint hope applications
 - Extraordinary remedies
 - Ontario Review Board (ORB) hearings
 - Miscarriage of justice reviews
 - Protocol Case Unit (PCU) cases
 - Long term offender (LTO) applications(This list may be amended from time to time.)

District Area Director (DAD) Exemptions

- LAO may exempt matters within the block fee program on a case-by-case basis if certain criteria are met and lawyers apply in writing to their District Area Director (DAD)
- Exempted block fee matters will proceed by the hourly tariff
- An exemption will be granted only in exceptional circumstances
- DADs will consider such factors as:
 - exceptional Crown resources devoted to the prosecution
 - exceptional disclosure
 - exceptional number of charges
 - likelihood of multiple proceedings
 - novel facts
 - legal arguments
 - lengthy sentencing proceedings

Most Serious Charge/Setting Matters Down for Trial

Most Serious Charge

- The most serious charge and type of proceeding determines whether the matter is to be billed and paid by block fees or by the hourly tariff
 - If the most serious charge falls in the Excluded charges case category
 - **Matter is billed and paid by Hourly tariff**
(will remain as an hourly tariff matter, no matter how the charge(s) are resolved)
 - Example: Assault + Murder = Hourly Tariff
 - If the most serious charge falls within Summary I, Summary II, or Indictable case categories
 - **Matter is billed and paid by Block fee**
 - Example: Assault + Fail to Comply = Block Fee

Setting Matters Down for Trial

- Once set down for trial,
 - all services provided on that certificate must be billed hourly



Block Fee v/s Hourly Tariff

Paid by Block Fees	Paid by Hourly Tariff
All Summary I cases	Excluded Charges and Excluded Processes
All Summary II cases	Preliminary inquiries and trials for all charges
Most Indictable cases	All not resolved matters



SECTION II - BLOCK FEE RULES

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Rules: Who can bill Block Fee matters

- Only LAO panel members can represent clients on block fee matters
- LAO will not pay a Block Fee if the client was represented at the time of the standard or authorized Block Fee service by:
 - Lawyers who are not LAO Panel Members
 - Duty Counsel
 - Non-Lawyer Agents
 - Law Students/Law Clerks
 - Self (Client Self Represented)

Rules: Disbursements

Inherent Disbursements

- The following three inherent disbursements have been rolled into the block fee price for all block fee accounts:
 - fax charges
 - photocopies (except out-of-office photocopies)
 - process servers - service and filing of documents within Ontario
- All other inherent disbursements on a block fee account will be available for selection (e.g. telephone calls)
- When a certificate is cancelled, no rolled-in disbursements will be paid

Excluded Disbursements

- Excluded disbursements require prior approval from Legal Aid Ontario
- With prior approval, you will be able to bill the disbursement *Online* with your block fee account

Rules: Change of Solicitor / Private Retainer

Change of Solicitor & Not Resolved Matters

- All not resolved matters, including change of solicitor and absconding clients are billed and payable under the existing hourly tariff

Private Retainers

- LAO's policies and procedures in respect of private retainers remain unchanged
- Accounts will be examined post-payment
- Lawyers who submit block fee accounts with private retainers will be required to produce their private retainer detailed dockets



Rules: Acting for Co-Accused

Acting for Co-Accused

- LAO's policies and procedures regarding conflicts of interest and acting for co-accused remain unchanged
- The lawyer must identify if he/she has acted for a co-accused when billing the account
- Block fee accounts with co-accused will be reviewed by Lawyer Payment staff
- Staff will allow the highest applicable block fee on one certificate and 40% of the highest applicable block on the second



Rules: Dockets

- Dockets are not required to be attached *Online* when billing block fee accounts
- Dockets must be attached if the matter is set down for trial and/or the matter is unresolved and subject to the hourly tariff
- Lawyers are under a duty to maintain dockets necessarily required by:
 - Lawyer's duty to his/her client
 - The Law Society of Upper Canada
 - The *Legal Aid Services Act* and *Regulations* thereto
 - LAO's policies and procedures (e.g. Post-Payment Examination)
(Lawyers are required to produce these dockets upon request to LAO.)
- Note:
 - In cases where the *Gladue* submissions block is selected, *Gladue* preparation should be specifically docketed
 - In cases of *Charter* motion blocks, counsel must indicate the date upon which a *Charter* motion was conducted

Rules: Discretion

- Discretion has been rolled into the block fee pricing
 - Discretion is not available on matters paid by block fees
- Discretion remains available on all matters paid under the hourly tariff, including “excluded” certificates, block fee-eligible certificates where the matter has been set down for trial, and not resolved matters

Rules

Acknowledgement fee

- The acknowledgement fee is rolled into the block fee price
 - When a block fee matter proceeds by the hourly tariff, the acknowledgement fee will be added to the hourly tariff account

Tiers

- Block fees are not subject to “tiering” based on years of experience

Travel and Mileage (where authorized)

- Travel and mileage are paid in addition to the block fees

Guaranteed Daily Rate (GDR) and Northern Incentive

- GDR and Northern Incentive rates will continue to apply to block fee matters and are paid in addition to the block fees
- GDR and Northern Incentives related to block fees are under review

Rules

Annual Billing Limit (Hardcap)

- LAO's annual hard cap policy will apply to block fee accounts
 - LAO is determining the allocation of hard cap hours to block fees
- For hard cap purposes, block fee billings will be attributed to the lawyer who appears at the final appearance of a block fee matter

Daily Billing Limit (Daily Cap)

- The daily cap policy does not apply on block fee certificates
- There is no daily limit on the number of fixed fee matters that can be billed at this time

General

- All other terms, conditions, and provisions of the *Legal Aid Services Act* and the *Regulations* and LAO's policies and procedures, including the Tariff and Billing Handbook, apply



Topic	Rule: Block Fee Phase II
Who can bill block fee matters	Only LAO panel members can represent clients
Disbursements (Included)	Faxes, in-office photocopies, process servers
Change of Solicitor/Not Resolved	Paid by hourly tariff
Co-Accused	No change in LAO policy
Private Retainer	No change in LAO policy
Dockets	No dockets to be attached online for block fees
Discretion	No discretion available for block fees
Acknowledgment fee	Included in block fee
Tiers	No tiering in block fees
Travel & Mileage (where authorized)	Paid in accordance with the tariff
GDR & Northern Incentives	Paid in addition to the block fees
Hardcap	Hardcap applies to block fees
Daily Cap	Daily cap doesn't apply to block fees



SECTION III - TYPES OF BLOCK FEES, BILLING & PAYMENT RULES

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Types of Block Fees

Resolution Blocks	Ancillary Proceeding Blocks	Vulnerable Client Blocks	
Stay/Withdrawal	Bail Hearing		<u>Standard Blocks</u> (Inherent with a block fee certificate)
Guilty Plea	<i>Charter</i> Motion		
	Judicial Pre-Trial (JPT)		
	Bail Review		<u>Authorized Blocks</u> (require prior authorization)
		<i>Gladue</i> submissions	
		Mental Health	



	Summary Cases (Block Fees Available)	Indictable Cases (Block Fees Available)	Excluded Cases & Proceedings
Activity/ Resolution Fee	Block fees could be paid for a) Guilty Pleas b) Stays/Withdrawal	Block fees could be paid for a) Guilty Pleas b) Stays/Withdrawal	Paid by Hourly Tariff
Ancillary Proceeding Fees	Block fees could be paid for a) Bail Hearings b) <i>Charter</i> Motions c) Judicial Pre-Trials (JPT) d) Bail Reviews	Block fees could be paid for a) Bail Hearings b) <i>Charter</i> Motions c) Judicial Pre-Trials (JPT) d) Bail Reviews	
Vulnerable Client Fees	Block fees could be paid for a) Mental Health Fee b) <i>Gladue</i> submissions	Block fees could be paid for a) Mental Health Fee b) <i>Gladue</i> submissions	
Preliminary Hearings	Not Applicable in Summary Cases	Paid by Hourly Tariff	
Trials	Paid by Hourly Tariff	Paid by Hourly Tariff	
Not Resolved	Paid by Hourly Tariff	Paid by Hourly Tariff	



	Block Fee	Summary I	Summary II	Indictable
Activity/Resolution Fee	Guilty Pleas	\$615	\$707	\$1,161
	Stays/Withdrawal	\$794	\$913	\$1,254
Ancillary Proceeding Fees	Bail Hearing	\$250	\$250	\$250
	Judicial Pre-Trials (JPT)	\$250	\$250	\$250
	<i>Charter</i> Motions	\$250	\$250	\$250
	Bail Review	\$375	\$375	\$375
Vulnerable Client Fees	Mental Health	\$375	\$375	\$375
	<i>Gladue</i>	\$375	\$375	\$375



When Is a Block Fee Payable?	Guilty Plea	Stay/ Withdrawal
Fee is inclusive of preparations, attendances, etc., in event case is resolved by guilty plea of one or all charges prior to matter being set down for trial	✓	
Fee is inclusive of preparations, attendances, etc., in event case is resolved by withdrawal of one or all charges prior to matter being set down for trial		✓
May be combined with other block fees	✓	✓



When Is a Block Fee Payable?	Bail Hearing	Charter Motion	JPT
Payable for preparation and attendance at completed bail hearing	✓		
Payable for preparation of materials if defence or Crown files <i>Charter</i> application		✓	
Payable for preparation and attendance at a Judicial Pre-Trial (JPT)			✓
Payable once per certificate in accordance with existing tariff handbook	✓	✓	✓
May be combined with other block fees	✓	✓	✓



When Is a Block Fee Payable?	Bail Review	Persons with Mental Health needs	Gladue submissions
Payable for preparation and attendance at a bail review	✓		
Payable for preparation and attendance at court for the following purposes: - arrange for a fitness hearing or NCR assessment - adjourn a case for a fitness hearing or NCR assessment - arrange a remand to a psychiatric facility - address the court on result of remand to a psychiatric facility		✓	
Payable - persons on <i>Gladue</i> panel Preparation and/or attendance			✓
Payable once per certificate in accordance with existing tariff handbook	✓	✓	✓
Authorizations granted by District Office or Client Service Centre	✓	✓	✓
May be combined with other block fees	✓	✓	✓



	Final bill	Interim bill	Supplementary bill
Resolution blocks			
- Guilty Pleas	✓		
- Stay / Withdrawals	✓		
Ancillary Proceeding blocks			
- Bail Hearing	✓	✓	✓
- <i>Charter</i> Motion	✓	✓	✓
- Judicial Pre-Trial (JPT)	✓	✓	✓
- Bail Review	✓	✓	✓
Vulnerable Client blocks			
- <i>Gladue</i> submissions	✓	✓	✓
- Mental Health	✓		✓
Excluded Disbursements	✓	✓	✓
Travel (if authorized)	✓	✓	✓



Billing Scenarios: Resolution block / Set down for Trial (Hourly)

