

Tariff reform: number of hours, hourly rates and block fee rates



OVERVIEW OF PROPOSED CHANGES

Legal Aid Ontario (LAO) is consulting on proposed amendments to the fees private bar lawyers are paid for doing legal aid work. LAO is proposing to:

- increase the hourly rates for roster lawyers and the amount paid for block fees
- increase the number of hours allocated under the hourly tariff
- allow per diem duty counsel to bill according to their tier rate

LAO is interested in any other ideas regarding changes to the tariff, particularly those that could help address backlog issues in the courts.

TARIFF REFORM: NUMBER OF HOURS, HOURLY RATES AND BLOCK FEE RATES

Under the Legal Aid Services Rules (the Rules) under the *Legal Aid Services Act, 2020* (LASA, 2020), the legal aid tariff sets out the compensation for lawyers who provide services to low-income individuals. The tariff includes hourly rates, block fee rates and establishes the number of hours that roster members can bill for specific types of proceedings.

PROPOSED RULE AMENDMENTS

LAO is consulting on the following:

HOURLY AND BLOCK FEE RATES

- Increasing the hourly and block fee rates paid to roster members

TARIFF REFORM (May be implemented in two phases)

Criminal law

Certificates billed hourly

- Increasing the base tariff regardless of the outcome
- Increasing the tariff for Charter applications
- Adding two-hour mental health authorization
- Revising the method by which fitness hearings are billed
- Eliminating the need to request discretion when the tariff exceeds 64-hours of preparation time.

Gladue and IRCA reports

- Increasing the tariff and block fee for Gladue submissions
- Adding tariff and block coverage for submissions made in respect of Impact of Race and Cultural Assessments (IRCAs)

Bail

- Maintaining the increase in the tariff and block for bail hearings
- Continuing coverage for inmate detention reviews (Myers reviews)
- Increasing the tariff and block for Myers reviews and bail reviews
- Increasing the payments for s.524 applications
- Expanding bail coverage to include second bail hearings where there is no s.524 application
- Changing the “set down for trial” question in Legal Aid Online (LAO’s billing portal) to allow a bail hearing or judicial pre-trial which took place prior to the matter being set down for trial to be billed as a block fee when billed after the matter has been set down for trial.

Block fees

- Removing the distinction between summary 1 and summary 2 block fees and paying all summary resolutions at the higher summary 2 block fee rate
- Introducing a fitness hearing block

Additional proposed criminal amendments

- Simplifying the rules applicable to billing contested trials by eliminating the distinction in the tariff calculation between summary indictable 1 and indictable 2 offences
- Eliminating the distinction between the tariff for indictable 1 guilty pleas with fewer than five hours of preparation and pleas with more than five hours of preparation.
- Expanding the number of offenses that may be eligible for criminal mid-level case

management

- Providing an additional block enhancer or tariff allotment where multiple informations are resolved through a global resolution

Family law and child protection law

- Providing additional tariff hours for using interpreters
- Introducing coverage for motions that includes both preparation and attendance
- Increasing the base tariff allocated in family law
- Increasing the tariff available for case conferences and simplifying billing for case conferences
- Introducing coverage to respond to third party applications in child protection matters

Criminal and family law

- Introducing a tariff authorization in criminal, family and other civil matters where the use of an interpreter is necessary

Immigration and refugee law

Proposed tariff changes applicable to immigration and refugee services, which are funded by the Federal Government, include:

- Continuing the additional hours for Basis of Claim preparation to help clients complete their portal applications
- Creating new authorizations for:
 - additional hours for Basis of Claim form preparation where a separate narrative is required
 - additional hours where a Designated Representative has been appointed for an adult claimant, where the Minister has intervened, or exclusion issues have been raised
- Ending the previous policy requiring large extended families to be served on a single certificate.
- Increasing the tariff hours for danger opinions
- Covering additional preparation time for the continuation of all types of hearings before the Immigration and Refugee Board
- Creating a new authorization to cover work on Humanitarian and Compassionate (H&C) Grounds Applications after first stage approval has been granted