

Family case management training guide



LEGAL AID ONTARIO

AIDE JURIDIQUE ONTARIO

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Author:	Lawyer Services & Payments (LSP)
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LAO contact information

Mailing address:

Legal Aid Ontario
40 Dundas Street West
Suite 200
Toronto, ON M5G 2H1

Telephone

1-800-668-8258 (or 416-979-2352)

Website:

www.legalaid.on.ca

Lawyer Service Centre

1-866-979-9934 or 416-979-9934

- To check on the status of an account
- Questions about direct deposit/banking information
- Help with online billing using Legal Aid Online
- Change of contact information
- General tariff information
- Experience level increases
- Information about review of an account

1 Case Management

On November 26, 2012, Legal Aid Ontario (LAO) introduced case management.

Family case management provides lawyers with cost certainty, predictability and adequate resources to deliver high-quality cost-effective services for costly complex proceedings. For LAO, case management allows the monitoring and controlling of case costs in accordance with the standard of a reasonable client of modest means properly advised.

Case managers will work closely with counsel to develop budgets and to ensure clear expectations regarding the program.

2 Implementation of family case management

Phase 1

LAO used this period as a learning and development opportunity for our organization and the bar to assess the opportunities and challenges of the Family Case Management program.

LAO monitored and adjusted the program as required based on improvements to client service, ongoing feedback from the bar, and our organization's financial situation.

Phase 1 of the Family Case Management program began November 26, 2012.

Phase 2

Effective February 3, 2020, LAO began an expanded Family Case Management pilot. Child protection cases (with the exception of supervision order cases) that are expected to cost \$8,000 or more, and family/domestic cases that are expected to cost \$12,000 or more in fees, disbursements and discretion are now eligible to apply for family case management.

3 Eligibility for family case management

3.1 Criteria for family case management

CYFSA Cases

CYFSA cases may be streamed into case management under the following conditions:

- The case is not a supervision order matter
- The case is likely to exceed \$8,000 (inclusive of fees and disbursements) and available tariff authorizations are insufficient*
- The case is not involved in the Second Chair program
- Counsel agrees to the family case management terms and conditions.

Family/Domestic Cases

Family/domestic cases may be streamed into case management under the following conditions:

- The case is likely to exceed \$12,000 (inclusive of fees and disbursements) and available tariff authorizations are insufficient*
- An LAO settlement conference has been held (where available and appropriate)
- There are no outstanding costs orders against the client
- The case is not involved in the Second Chair program; and
- Counsel agrees to the family case management terms and conditions.

**For a list of available authorizations, please refer to Chapter 4 of the Tariff and Billing Handbook.*

3.2 Factors that may increase case complexity and cost

Counsel may wish to highlight these factors when making an application for family case management.

CYFSA Cases

The following factors may increase case complexity and cost. Counsel may wish to highlight these factors when making an application for family case management:

- Expert reports (e.g., a parenting capacity report) or expert evidence is required.
- The client is from a particularly vulnerable or over-represented community (e.g., Indigenous, Black).
- The case involves *Charter* issues.
- An LAO settlement conference has been considered and completed (where available and appropriate).
- The case involves a third party (or non-party).
- There are client capacity issues (e.g., mental health challenges, emotional or behavioural disorder, substance use, learning disability, physical disability).
- The case involves complex legal issues.
- The case involves complex legal processes or procedural issues.
- There is substantial disclosure.
- The children have special needs (e.g., serious medical issues).

Family/domestic cases

The following factors may increase case complexity and cost. Counsel may wish to highlight these factors when making an application for family case management:

- The case involves a high conflict family or opposing party.
- Both parties are seeking sole custody.
- The opposing party is a self-represented litigant.
- The opposing party is self-employed.
- Spousal support and/or property claims are made.
- The case involves the Hague Convention on International Child Abduction.
- The case is a Family Responsibility Office matter where there are substantial arrears (over \$50,000 in arrears).
- The case includes contempt motions.

- There are related criminal or immigration matters, reflecting intersecting legal needs.
- The case involves allegations of domestic abuse (ie., domestic violence).
- The client is from a particularly vulnerable community (e.g., Indigenous, Black).
- There are client capacity issues (e.g., mental health challenges, emotional or behavioural disorder, substance use, learning disability, physical disability).
- The case involves complex legal issues.
- There are mobility or jurisdictional issues.
- The case involves complex legal processes or procedural issues.
- An alternative dispute resolution process has been attempted (e.g., mediation).
- The case involves multiple change of solicitor requests.
- The children have special needs (e.g., serious medical issues).

A budget for tariff and additional blocks of case management hours is set by the case manager in collaboration with counsel. Accounts submitted are matched and paid up to the maximum of the tariff and case management authorizations.

Discretion is not available in addition to an approved budget.

4 Case management process

Step 1 >	Step 2 >	Step 3 >	Step 4
<p>Counsel completes the case management assessment form and forwards it to LAO if costs are likely to exceed \$8,000 in a child protection case, or \$12,000 in a family/domestic abuse case and the tariff is insufficient.</p>	<p>Case manager reviews the assessment form and contacts counsel to discuss the case.</p> <p>Budget is set, if appropriate.</p>	<p>Case management authorization is added to certificate.</p>	<p>Counsel completes work and submits account for payment.</p> <p>Payment is made within 28 - 33 days, if account does not breach any billing rules, e.g., is not billed for late, etc.</p>

5 Case management budget

Budgets are set through existing tariff authorizations and Case Management (CM) blocks of five, 10, 15 and 20 hours.

Budgets will be determined in consultation with the case manager. Budgets can be amended prior to costs being incurred but can only be amended retroactively (after costs incurred) in exceptional circumstances, usually as a result of unforeseen or uncontrollable circumstances.

Accounts are paid up to the amount of the budget. If you anticipate exceeding the budget, contact the case manager prior to submitting an account that exceeds the budget.

If a matter is eligible for case management and discretion is requested, the request for discretion should address why a budget was not requested. Otherwise failure to obtain a budget may result in the account being paid as tariff.

Discretion is not available on case managed files.

5.1 Family case management authorizations

Case managers can issue blocks of case management authorizations in support of CYFSA and family/domestic proceedings where the tariff is inadequate as part of the case management budget setting process. Case management authorizations are issued in blocks of five, 10 or 15 hours.

Examples of both the types of issues that may require a block of case management authorizations to be added, and the number of hours that could potentially be allocated, is provided below.

Pre-trial prep	Hours
Disclosure: Exceeds the norm, tariff allocation is inadequate	5 - 10
Procedural pre-trial motion (initiating or responding): Complex, adding party, reserve band involved	5 incl. court time
Substantive pre-trial motion (initiating or responding): Complex, increasing access	5 plus court time

Trial prep	Hours
Complex, medical evidence, experts	10 - 15
Parenting Capacity Assessment	10
Trial by Affidavit	10

6 Appendix

6.1 Online resources

- [Case management](#)
- [Big Case Management](#)
- [Mid-level Case Management](#)
- [Family Case Management](#)
- [Billing](#)
- [Tariff and billing](#)
- [Tariff and Billing Handbook](#) – [PDF]

6.2 Case management assessment forms

- [Family case management](#) – [PDF]