

Legal Aid Ontario

Disbursements Handbook



Disbursements Handbook

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Disbursements Handbook

1. General Principles regarding Disbursement Authorization

- Legal Aid Ontario (LAO) authorizes lawyers acting on legal aid certificates to incur and bill the cost of actual disbursements that are reasonably necessary to support the legal services authorized by the certificate, keeping in mind the costs and expenses that a reasonable client of modest means would likely approve.
- A disbursement not otherwise covered in this handbook ALWAYS requires prior authorization.
- LAO is not responsible for the cost of disbursements incurred where authorization is not obtained in advance.
- There is no provision in the *Legal Aid Services Act* or Regulations for retroactive disbursement authorization. Retroactive disbursement authorization may be granted in cases where authorization would clearly have been granted if sought in advance.
- Some disbursements may not require prior authorization if they are within specified pre-authorized limits, e.g. parenting capacity assessments or pension valuations. Where a disbursement will exceed the pre-authorized limit, ensure that prior authorization is obtained.

Important

It is a serious violation of LAO policy to circumvent the requirement of prior authorization to bill unauthorized disbursements as regular disbursements covered by the certificate.

- The *Legal Aid Services Act* and Regulations prohibits a lawyer from seeking reimbursement from a client for fees or disbursements disallowed by LAO incurred in connection with a matter covered by a legal aid certificate.
- LAO is not bound by the provisions of court orders ordering payment of any kind, including payment of disbursements, unless LAO was represented in Court and was allowed to make submissions on the issue prior to the order being made.
- Counsel for a legally-aided client is responsible for disbursements incurred without authorization, or for which authorization has been denied. Counsel is responsible for

all third-party service providers and the contract is between the lawyer and the service provider.

Billing Authorized Disbursements

Disbursements for which prior authorization is required will not appear on the certificate and will not be available for online billing.

Always ensure that disbursements are entered properly and under the correct section when submitting an online account. Disbursements for which authorization has been granted will appear as specific authorizations on the certificate.

Certificate Effective Date

The effective date of the certificate applies to fees as well as disbursements. If disbursements have been incurred prior to the effective date, contact the District Office regarding whether the effective date can be changed. If the disbursement incurred requires prior authorization, seek such authorization on a retroactive basis prior to submitting an online account.

Cancelled Certificates

Where a certificate has been cancelled, do not undertake any disbursement expenses and alert any experts or other third-party service providers to cease working on the matter.

Private Retainers

If you or another lawyer have acted for the client on a private retainer basis prior to the effective date of the certificate, disbursements incurred during the course of the private retainer period are not covered under the certificate and will not be paid by LAO.

Billing Deadlines

Billing deadlines for submitting accounts also apply to disbursement accounts. Exceptions are not made for disbursement-only accounts.

Counsel MUST:

- Obtain necessary disbursement authorizations in advance. This ensures that accounts rendered for disbursements are accepted and processed promptly.
- Inform service providers in advance of the terms/limits of the authorization, including limits on hourly rates, number of hours, billing deadlines and total cost of the disbursement.
- Select service providers who accept legal aid rates for services provided.
- Bill LAO promptly for disbursements.

- Provide payment for disbursements promptly to service providers.

Note

LAO does not pay services providers directly.

- Ensure the quality of the work obtained is worth the expense charged.
- Confirm whether prior authorization is required before incurring the cost of a disbursement. Contact the Lawyer Service Centre, or for quick reference, prepare a draft account and refer to the list of regular disbursements listed.
- Itemize all disbursements in the account and attach invoices whenever possible.
- Do not bill disbursements accounts for less than \$50.00, unless the account is being submitted to comply with billing deadlines or as a final account.
- Do not consent to a court order regarding the payment of a disbursement, e.g. for paternity testing, without prior authorization from LAO.

Note

Submit disbursements NET of HST. HST is paid by LAO whether or not it is billed by the service provider, in accordance with CRA's policy and procedures.

2. How to Request Prior Authorization/Authorization in Advance

- When requesting authorization for disbursement, include as much detail as possible as to description, name and credentials of service provider, estimate of cost including a breakdown of the expense (i.e. hourly rate, per page rate, number of words etc.).
- Explain the reason the disbursement is required, and whether it is time-sensitive.
- Include all relevant facts of the case and an explanation as to how the disbursement will advance the legally-aided client's case.
- Electronic forms which will assist you in requesting prior authorization for certain disbursements. These forms are available at www.legalaid.on.ca.

3. How to Submit a Disbursement Authorization Request

- Through the LSP EZDocs ["Send Documents Electronically to Lawyer Services & Payments (LSP)"] link on the solicitor portal.
- iFax.
- In an emergency, contact the Lawyer Service Centre.

4. Disbursement Authorization Requests under Big Case Management Files

Disbursement requests for case managed files should be faxed to Case Management and Litigation at 416-204-4710.

In most cases, the Case Management and Litigation Group the same practice is followed for authorizing disbursements as Lawyer Services and Payments; however, pursuant to the Gouge Report, LAO is now in a position to allow enhanced rates for experts, where exceptional circumstances exist in Big Case Managed files. A process has been devised for allowing the increased rates, which requires the completion of certain forms.

The forms are found on the legal aid web site at www.legalaid.on.ca/en/info/forms.asp.

Please ensure the form is typed and all sections of the form are completed, as a request will not be considered until all required information is provided.

Only very unusual cases, where experts with unique experience are required, will be considered for an enhanced rate.

Although cost is one of the considerations in determining whether an expert will be authorized; counsel's recommendation, the expert's experience and reputation are the most important factors. Other factors considered in determining the appropriateness of an enhanced rate are:

- Unusual circumstances of the offence;
- New forensic science discoveries; and
- Availability of a local expert.

If an enhanced rate is allowed for an expert, the acknowledging lawyer is required to complete the "Survey -Enhanced Rate Services" form, located at www.legalaid.on.ca/en/info/forms/survey_enhanced_rate_service.pdf

Each case is considered on its own merits. The allowance of an enhanced rate on one case does **not** guarantee that an enhanced rate will be allowed on all subsequent files where the expert is retained.

5. Disbursements for Mid-Level Case Management

Same principles apply as with Big Case Management.

6. Appeals of Disbursement Authorization Decisions

Where a disbursement authorization has been refused, in whole or in part, reconsideration may be sought by written request to Lawyer Services and Payments.

7. Regular Disbursements

The following disbursements do not require prior authorization and are covered under the legally-aided client's certificate.

- Faxes (\$0.25 per page);
- In-office photocopies (\$0.10 per page);
- Postage;
- Courier;
- Process service;
- Long-distance telephone calls (cost must be directly attributable to the legally-aided client's case);
- Binding.

8. Block Fee Certificates

Regular Disbursements

The following three disbursements have been calculated in the block fee payment for all block fee accounts. All other disbursements on a block fee account will be available for selection.

- fax charges;
- photocopies (except out-of-office photocopies);
- process servers - service and filing of documents within Ontario.

All other disbursements for block fee certificates are in accordance with this *Handbook*.

9. Alphabetical List of Frequently Requested Disbursements

The following is a list of disbursements for which prior authorization is always required or is required after a certain pre-authorized limit will be exceeded.

Disbursements must be related to the matter authorized under the certificate.

Access Centre Reports/Observation Notes

Family Law/ Child Protection

- LAO allows up to a maximum of **\$250.00** for reports/ access observation notes without prior authorization.
- Prior authorization is required for multiple sets of reports for ongoing access visits.

Agents

- Agents' accounts are not disbursements.
- Agents' accounts are paid as regular fees under the tariff allotment for the certificate.

Refer to Out-of-Province Lawyers section for further information.

Appraisals/Valuations

Civil/ Family

a. Generally

- Certificate authorization must include property issues in order to request disbursements relating to property issues.

Note

LAO does not generally authorize valuations of the opposing party's property/pension.

- Appraisals/valuations are the responsibility of the owner of the property.

- LAO pays for the cost of the appraisal/valuation of a legally aided client's property if it is reasonably necessary for the proceedings authorized by the certificate.
- Prior approval is required for appraisal of an opposing party's property if the owner's valuation is inadequate or unreasonably low. When requesting authorization, provide details of the inadequacies/deficiencies of previous valuation reports. Show that the estimated value of the assets appears to justify the requested expenditure.
- If property is divided or awarded to the legally-aided client during the litigation, this will likely result in a change in their financial circumstances. Counsel must advise the district office of the change in circumstances and the client should immediately attend for financial reassessment.
- A legally-aided client who obtains property or money as the result of the litigation is obliged under s. 47 of the *LASA* to reimburse LAO for the amounts expended in pursuing the litigation.

b. Pensions

- LAO will pay up to a maximum of **\$600.00** without prior authorization for the valuation by the plan administrator of a pension plan of a legally-aided client's own pension.
- The amount to be billed is to be in accordance with the *Pensions Benefits Act (Ontario)* or any other applicable Federal legislation and will vary depending on the type of pension plan (defined benefit plan or defined contribution plan)
- Prior approval is required and must be requested in writing:
 - If the report will be prepared by an expert other than the plan administrator;
 - To obtain any kind of report about the value of an opposing party's pension;
 - For the valuator's attendance at court.

c. Real Property

- LAO will pay up to **\$300.00** without prior authorization for an appraisal of real property in which an interest is claimed by the legally-aided client.
- If a legally-aided client owns real property jointly with another party, try to obtain a joint appraisal with the cost to be shared equally between the parties.

d. Chattels

- LAO generally does not authorize or pay for a valuation of chattels owned by a legally-aided client or an opposing party.
- LAO does not generally authorize coverage for the division or recovery of chattels.

Assessments and Critiques

a. Assessments in Family Law Proceedings

- LAO grants up to **18 hours** for an assessment without prior authorization.
- Assessments are paid at an hourly rate based on the credentials of the assessor. The name and specific credentials of the chosen assessor is required for specific disbursement authorization, which, if authorized, will be added to the legally-aided client's certificate.
- Hours are normally apportioned between the parties where both are legally aided. Normally, LAO will pay up to **nine (9) hours** per party if both parties are legally-aided.
- Each party's counsel must make individual requests for authorization.
- Counsel must make written request in advance should more hours be required for assessment purposes.
- Do not consent to an order for an assessment which will require LAO to pay for an assessment without prior authorization from LAO.
- The name and specific credentials of the chosen assessor is required for specific disbursement authorization, which, if authorized, will be added to the legally-aided client's certificate.
- Hours authorized are intended to cover all services provided by the expert, including meeting the legally-aided client and/or children, reviewing documents and disclosure, discussions with counsel and preparation of a written report.
- No travel time or disbursements will be paid with respect to the assessment unless specifically authorized.
- The legally-aided client is personally responsible for the cost of missed or cancelled appointments.
- In cases where an assessment has been completed within the last year, generally only an update will be authorized, unless there are exceptional circumstances.
- Assessments relating solely to the issue of access are generally only authorized in cases where child abuse is alleged.
- Counsel must provide details of the history of the litigation, including the names of all parties and whether they are legally-aided; whether the assessment has been ordered by the court and any other relevant information.

b. Assessments in Child Protection Proceedings

- LAO does not generally grant authorization for full parenting capacity assessments in child protection proceedings because such assessments are to be funded by the Society under s. 54 of the *Child and Family Services Act*, without contribution from legally-aided clients.
- Counsel should always seek a s. 54 order for assessment prior to requesting disbursement authorization for an assessment or a critique.

- Legal Aid may authorize up to **nine (9) hours** for a critique of an existing assessment that is not favourable to the legally-aided client's case.
- Critiques are paid at an hourly rate based on the credentials of the assessor.
- The name and specific credentials of the chosen assessor is required in order for specific disbursement authorization to be added to the client's certificate.
- No travel time or disbursements will be paid with respect to the critique unless specifically authorized.
- The client is personally responsible for the cost of missed or cancelled appointments.

c. Assessments for Criminal Proceedings

- Includes proceedings before the Ontario Review Board.
- Assessments are paid at an hourly rate based on the credentials of the assessor.
- Prior approval is not required for up to **six (6) hours** to conduct an assessment and report to aid in a client's defence or sentencing in the following cases:
 - Type I, or Type II indictable offences;
 - To assist with the defence or sentencing of a client in relation to any other offence in which the defence put forward is one of not criminally responsible; or
 - To assist with the defence or sentencing of a client in relation to a charge of sexual assault, or other sexual offences, such as sexual interference, invitation to sexual touching, or a charge of assault against a child.
- Prior approval is not required to retain a pathologist for up to **six (6) hours** in which the client is defending against murder or manslaughter charges.
- Counsel must seek prior authorization for assessments in summary conviction matters.
- Counsel must seek prior authorization for additional hours.
- Requests for authorization should include details of the case, the theory of defence, services to be provided and how the assessment and report will aid the defence.
- Prior approval is required in all other cases, or if the number of hours for the assessment or hourly rate proposed to be charged will exceed these limits.

d. Psychiatric Observation

- LAO will pay a maximum of **two (2) hours** to retain a general practitioner, registered doctor of psychology or psychiatrist to assess a legally-aided client and prepare a report to be used to request that the court remand the client for observation.

e. Assessments for Youth Criminal Proceedings

- Assessments for youths between 12 and 15 years of age are funded by the Ministry of Community and Social Services and should be initiated by an MCSS official through the Direct Services Administrator at the local MCSS office.
- Under the *Youth Criminal Justice Act* assessments for youths ages 16 and 17 years are funded by the Ministry of the Attorney-General.
- LAO rarely authorizes assessments for youth clients because of the availability of assessments under s. 34 of the *Youth Criminal Justice Act*, which provides that such assessments be funded by the Ministry of the Attorney-General.
- Counsel for a legally-aided youth client must make an application under s. 34 where applicable.
- In circumstances in which s. 34 applies, LAO may authorize an assessment if the assessment is required to assist with the defence to the charges, and there are issues of confidentiality relating to disclosure as required by s. 13 of *Canadian Charter of Rights and Freedoms*.
- In circumstances in which s. 34 does not apply, or where an application under s. 34 was unsuccessful, LAO may authorize an assessment. Details as to why the application was denied must be provided when requesting authorization.
- Where authorized, assessments are paid at an hourly rate based on the credentials of the assessor.

f. Other Assessments

- For assessments in all other matters, such as immigration and refugee matters, prior authorization must be obtained.

Note

LAO does not pay for a legally-aided client's therapy/ counselling sessions or ongoing treatment of any kind, which is the client's responsibility as a personal expense.

CAS Records and Disclosure

Family/ Child Protection

- LAO pays for copies of a legally-aided client's relevant CAS records, or those of a legal aided client's child or children, for the purposes of family law or child protection proceedings.
- LAO allows up to **\$300.00** for CAS records/ disclosure without prior approval; however this amount is only for copies at the rate of **\$0.10 per page**.
- Pursuant to O. Reg. 107/99, Schedule 6, enacted pursuant to *LASA*, the legal aid rate for copies is \$0.10 per page, unless there is another specifically mandated charge. Pursuant to Rule 19(2) of the *Family Law Rules*, a party is entitled, on

request to examine documents and receive at the legal aid rate of \$0.10 per page, a copy of any document that the party is entitled to examine.

- LAO does not pay law clerk fees for file preparation/ compiling and copying of files and documents.
- Before any authorization can be added to the client's certificate, confirmation is required that Society is charging only for the cost of copies. The Society may not charge an hourly rate.
- For disclosure that will cost in excess of \$300.00 prior authorization must be obtained.
- Counsel should make best efforts to obtain only the most relevant and necessary portions of records.

**Note regional variations*

Computer Research

- Subscription to computer research services and/ or software is considered to be part of counsel's overhead and is not payable by LAO.
- *LAO Law* is available for counsel as a research source for general and case-specific research.

Court Filing Fees

a. Paid to the Court for Issuing or Filing Documents and Pleadings

- LAO pays court filing fees for issuing and/or filing pleadings/ documents if the proceedings are authorized under the certificate.
- For "opinion only" certificates, where the commencement or defence of proceedings has not been authorized, counsel should contact the District Office prior to incurring any court filing fees.

b. Motions to be Removed as Counsel of Record

- LAO will pay, without prior authorization, reasonable disbursements relating to a motion to be removed as counsel of record where the certificate authorizes proceedings.
- Motions for removal should be brought as soon as possible.

c. Trial Records

- LAO pays filing fees for trial records without prior approval where the certificate includes trial authorization.

d. Writs of Seizure and Sale

- LAO will pay reasonable disbursements and costs for the purpose of filing a writ of seizure and sale to secure a judgment made in favour of the legally-aided client, as long as the writ is filed within a reasonable time after judgment is obtained.

Crown Disclosure

a. Criminal

- The cost of the production of the Crown brief, including labour and material costs, is the responsibility of the police.
- The cost of producing a copy of the brief intended for disclosure, including labour and material costs, is the responsibility of the Ministry of the Attorney General.
- LAO will allow up to \$25.00 (250 pages) to print crown disclosure from disc
- Prior authorization is required for larger amounts
- LAO will pay up to a maximum cost of \$25.00 for a replacement copy of disclosure.

b. Print Crown Disclosure from Disc

- LAO will allow up to **\$25** (250 pages at \$0.10 per page)
- Prior authorization is required for larger amounts.

Digital Audio Recordings

- LAO will consider reimbursing the cost of digital recordings of proceedings in OCJ & SCJ for counsel of record for one of the parties to the proceedings (court order is not required)
- Counsel may bill for a single day without prior approval. Prior approval is required for digital recordings of more than 1 day.
- Prior LAO approval must be obtained for counsel who is not counsel of record for one of the parties to the proceedings. In this situation a court application for the digital record is required.
- Digital recordings may be used for reviewing portions of proceedings, but are not intended to replace the need for transcripts where otherwise necessary.
- LAO recommends counsel consider a digital record for appeal opinion certificates for Reasons for Judgement.
- LAO will not generally authorize disbursements for both a digital record and a transcript of the full court proceeding.

- LAO will not generally authorize the additional costs of an expedited request for a digital record
- Counsel must comply with the undertaking required to be signed by the Court to obtain the audio recording including the term of the undertaking that counsel will not “authorize, assist or permit anyone to publish, broadcast, reproduce, or otherwise disseminate the digital recording, including any annotation in the audio file, in any way.”

Note

Time spent by counsel listening to a digital record is under the tariff and may or may not be considered for discretion.

- Payment is in accordance with regulations made under the *Administration of Justice Act* and the Court’s policy as follows:

Digital Recording Fee Schedule

1. **Single Day’s Recording Per Case:** For a request for a single day’s recording, per case:
 - \$22.00 (regardless of the length of the day’s proceeding)
2. **Multiple Day Recordings Per Case:** For a request for multiple day recordings, per case:
 - \$22.00 for the first day requested (regardless of the length of the day’s proceeding)
 - \$10.50 for each additional day ordered of the same case (regardless of the length of each day’s proceeding)*

* In order for the \$10.50 fee to apply, the order for multiple days must be received at the same time

Digital recordings for a limited number of days of the full proceedings may be available for: Bail hearings, Motions, Preliminary hearing, Trial (ongoing), Reasons for judgment.

Transcripts, if applicable, continue to be available for proceedings for which digital records are excluded. *See Transcripts.*

Digital Media Photos

- Prior approval is not required up to a maximum of **\$50.00** media.
- Where copies and photos are taken as part of private investigator services, the maximum allowed by LAO is **\$25.00**.

Drug Testing

Family/ Child Protection

- LAO will allow up to **\$185.00** plus HST for one hair follicle drug test in child protection cases.
- Prior authorization must always be sought for hair follicle drug testing for family matters and for subsequent tests in child protection cases.
- LAO generally pays up to a maximum of **\$185.00** plus HST for the legally-aided client's hair follicle drug testing (5-panel).
- LAO does not pay for urine testing which is covered by OHIP.
- LAO does not pay for ongoing/ regular drug screening.

Examinations (Out of Court) & Questioning, Discoveries

Civil/ Family

- LAO covers the cost of examiner fees in accordance with the rates set out in the *Administration of Justice Act*, where applicable:
 - For the cost of the official examiner's appointment for questioning or examination of an opposing party.
 - In civil litigation cases, the District Area Director has specifically authorized examinations for discovery to proceed and for related disbursements to be covered.
 - In family law matters, no specific authorization from the District Area Director is required; provided the District Area Director has authorized the action to proceed.
 - Cancellation charges for missed appointments are the personal responsibility of the legally-aided client.
 - Payment of the official examiner's cancellation charges is within the discretion of the Legal Accounts Officer when the other party does not attend. Include a request for the exercise of discretion with your account and include the reasons for the cancellation and whether you will be including the disbursement in the claim for cost.
- Prior authorization must be obtained for fees which are in excess of the prescribed rates.

**Note regional variations*

Refer to Transcripts section for information about transcripts of examinations/questioning.

Experts

a. General Information

- Experts are paid at hourly rates in accordance with their academic credentials and qualifications.
- Factors taken into consideration when authorization for experts is requested include cost-effectiveness, specific conditions and services unique to the region, special needs of the legally-aided client, available resources in the district, and the credentials and experience of the expert in question. The reasonable client of modest means test is always considered.
- When requesting disbursement authorization for an expert's services, wherever possible counsel should provide a written estimate from the expert directly.
- Requests for authorization should include details of the case, the theory of defence, services to be provided and how the assessment and report will aid the defence.
- Invoices from the expert should be attached to accounts. Invoices should be itemized, billed hourly, and include dates of all services, brief descriptions of the services provided, and the amount of time spent on each service on each date. "Block billing" by your expert delays the processing of his/her account. Make sure the expert knows LAO's requirements in order to reduce delay in processing the account.
- Reasonable out of pocket expenses, such as postage, faxes, photocopies, and long distance charges) are paid in accordance with the provisions of this *Handbook* if billed by your expert. These should be billed online in the appropriate designation of the drop down menu for regular disbursements (if not specifically authorized as a special disbursement).
- Secretarial services, typing or word processing costs, and the costs of missed appointments or cancellations are considered overhead expenses and are not reimbursed by LAO if billed by your expert.
- LAO does not pay interest charges on expert accounts.
- Clients are personally responsible for the cost of missed or cancelled appointments.
- Counsel is responsible for promptly submitting expert accounts for payment.
- LAO does not pay experts directly.
- Authorization for expert travel must be specifically obtained in advance.
- Counsel must provide reasons why a local expert cannot be retained. It is expected that local experts will be retained. Counsel must advise in the first instance if an expert is located in another jurisdiction and if it is likely that travel time and expenses will be requested by the expert.

- Expert's travel time, if authorized, is paid at the rate of **\$43.00 per hour**, and mileage is paid at the rate of **\$0.40/km** (\$0.41/km in Northern Ontario).

b. Expert Assessments and Written Reports

i. Criminal Matters

- In indictable criminal matters, prior approval is not required for up to **six (6) hours** to conduct an assessment and report to aid in a legally-aided client's defence or sentencing. Counsel must seek prior authorization for additional hours and must seek prior authorization for assessments in summary conviction matters.
- Prior approval is not required to retain a pathologist for up to **six (6) hours** where the legally-aided client is defending against murder or manslaughter charges.
- Prior approval is not required to retain a pharmacologist/ toxicologist for up to **six (6) hours** to defend Indictable Type I or II in which the defence is drug or alcohol ingestion.
- Prior approval is not required up to a maximum of **four (4) hours** for a document examiner where the legally-aided client is defending against fraud or forgery charges.
- Requests for authorization should include details of the case, the theory of defence, services to be provided and how the assessment and report will aid the defence.
- Counsel must provide details of why the particular expert is necessary and an estimate as to number of hours required (if more than preauthorized amount), as well as a copy of the expert's *curriculum vitae* and brief summary of expert experience.
- Hours authorized are intended to cover all services provided by the expert, including meeting the legally-aided client, reviewing documents and disclosure, discussions with you, and preparation of a written report.

ii. Refugee Matters

- LAO will pay up to **two (2) hours** without prior approval for a country expert to provide a written opinion as to country conditions in support of a legally-aided client's claim.
- Counsel must provide details of why the particular expert is necessary and an estimate as to number of hours required (if more than 2 hours), as well as a copy of the expert's *curriculum vitae* and brief summary of expert experience.
- Hours authorized are intended to cover all services provided by the expert, including meeting the legally-aided client, reviewing documents and disclosure, discussions with you, and preparation of a written report.

iii. Family Law Matters

- In family matters, prior approval is not required for up to **18 hours** for an assessment, such as an s. 30 CLRA assessment.
- Hours are apportioned between parties. Normally, LAO will pay **up to 9 hours per party** if both parties are legally-aided.
- Counsel must seek prior authorization for additional hours.
- Counsel must provide details of the history of the litigation, including the names of all parties and whether they are legally-aided; whether the assessment has been ordered by the court and any other relevant information.
- Counsel must provide details of why expert is necessary and estimate as to number of hours required (if more than the pre-authorized amount), as well as a copy of the expert's *curriculum vitae*.
- Hours authorized are intended to cover all services provided by the expert, including meeting the legally-aided client and/or children, reviewing documents and disclosure, discussions with you, and preparation of a written report.

Refer to section on Assessments/ Critiques for further information.

c. Expert Witnesses/ Testimony

- LAO grants authorization for expert court attendance on a half-day (**3 hours**) block basis, at the applicable hourly rate based on academic credentials and qualifications.
- When authorized, travel time is paid at **\$43.00 per hour**.
- Mileage, if authorized, is payable at the rate of **\$0.40/km** (\$0.41/km in Northern Ontario).
- Where an expert begins testimony in the morning and is required to finish in the afternoon, LAO will pay for a second half- day attendance fee.
- Experts are not compensated for attendance at court to observe proceedings or assist counsel without specific authorization. In serious criminal matters, authorization may be granted as part of a BCM budget.
- Experts should be retained on a standby basis for court attendance. It is expected that counsel will advise the Crown / Court when an expert is available to testify to avoid multiple half-day attendance charges.

d. Frequently Requested Experts and Applicable Hourly Rates

Expert	Rate
Bachelor's Degree (e.g. BSW)	\$90.00 per hour
Master's Degree (e.g. MSW)	\$100.00 per hour
Pharmacologist/Toxicologist (PhD)	\$150.00 per hour
Registered Psychologist (PhD)	\$150.00 per hour
MD, Specialist	\$175.00 per hour
Pathologist	\$200.00 per hour
Psychiatrist	\$200.00 per hour

- Other hourly rates are based on the credentials of the expert. Credentials include academic qualification, accreditation, and experience. Regional differences and the market rate may impact hourly rates.

e. Other Experts

- For any other expert, prior authorization is required.
- Counsel must provide details of why expert is necessary and estimate as to number of hours required, as well as a copy of the expert's *curriculum vitae*.
- The following is a list of other experts for which authorization is often requested. The applicable hourly rate is based on academic credentials. Counsel must provide details of why expert is necessary and estimate as to number of hours required, as well as a copy of the expert's *curriculum vitae*.
 - Accident Reconstructionist
 - Actuarial Expert
 - Arson Expert
 - Blood Spatter Expert
 - Computer Expert
 - Document Examiner
 - Data Recovery Expert
 - DNA Expert
 - Facial Recognition Expert
 - Fingerprint Expert
 - Firearms Expert
 - Forensic Accountant
 - Forgery Expert
 - Telecommunications Expert
 - Psychometrist

- Use-of-Force Expert

f. Out of Province Experts

- Prior authorization is always required for out-of-province experts.
- Legal Aid does not generally authorize an expert from outside Ontario if a local/regional expert is available.
- Counsel for legally-aided clients must take reasonable steps to locate a local expert.

Fees

a. Cancellation

- LAO does not pay cancellation fees or fees for missed appointments, which are the personal responsibility of the legally-aided client.

b. Freedom of Information and Privacy Protection Act (FIPPA)

- Prior approval is not required for *Freedom of Information and Protection of Privacy Act* Application fee (**\$5.00**).

c. H&C Applications

- Fees are not paid by LAO as they are not considered to be court fees and are not a disbursement in furtherance of legal proceedings.

d. London Custody and Access Project Intake (LCAP)

- Where an assessment is authorized to be conducted by LCAP, LAO pays the **\$150.00** intake fee for each legally-aided client.

e. Supervised Access Centre Registration

- LAO does not pay access centre registration fees for a legally-aided client; these are the personal responsibility of the client.

***Gladue* Reports**

a. Disbursement Policy

In locations where a publicly-funded *Gladue* report service is not available, *Gladue* panel members may request disbursement authorization for a report by a private organization. Counsel must first make the request to LAO and have the request approved before ordering the report. Private *Gladue* writers will only be considered for funding by LAO when a publicly-funded *Gladue* report writing service indicates they are unable to write the report. LAO may then make an exception and pay for a private service provider as part of our disbursement policy in exceptional circumstances only. Lawyers who wish to obtain a *Gladue* report through a private or independent organization should contact LAO's Lawyer Services and Payments regarding the eligibility of services covered by a disbursement.

b. Process to Request a *Gladue* Report Disbursement:

The request can be made by submitting the Request for an Expert/Other Service Provider form, found on the Solicitor Portal, to LSP. The request must include the following information:

1. Written confirmation that a funded *Gladue* report program is not located in your geographical area of Ontario
2. The *Gladue* report writer's information and qualifications
3. A summary of the charges
4. The disposition sought by the Crown
5. Services provided by the *Gladue* report writer
6. Estimate of the number of hours to write the report
7. Other expenses, such a travel and accommodation

c. Rates

The current rate for *Gladue* report services is an hourly rate of \$50.00. LAO normally approves up to 30 hours for a report, but up to 40 hours will be considered for complex reports for which there are serious consequences.

For travel and other expenses the rates stated in LAO's disbursement handbook apply:

\$43.00/hour and \$0.40/km (\$0.41/km in northern Ontario)

Hospital Records

- LAO pays up to a maximum of **\$150.00** for a legally-aided client's hospital records without prior approval.
- This preauthorized amount also applies to:
 - Hospital records of the legally-aided client's child/children in family law, CFSA or civil proceedings or criminal proceedings.
 - Hospital records in mental health proceedings including applications before the Consent and Capacity Board and the Ontario Review Board.
 - Hospital records for a legally-aided client's other family members.
- Prior authorization is required for hospital records which will exceed \$150.00.

Interpreters

a. Generally

- LAO authorizes interpreter services for the purpose of solicitor and client meetings.
- Actual interpreting time is compensated, with no minimum.
- Travel time is generally not paid for interpreter services. Counsel should consider whether interpretation by teleconference is appropriate.
- The cost of missed appointments or cancellations is considered part of overhead expenses and is not paid by LAO if billed by an interpreter.
- Interpreters are required to itemize their accounts, including the name of the interpreter, business address, the dates and time of day for all services, and a brief description of the services provided.
- LAO does not pay for an interpreter to assist in the cross-examination of an opposing party. The opposing party is responsible for providing his/her own interpreter.
- For refugee proceedings, additional hours may be authorized in cases involving more than one adult claimant with a separate claim covered by the certificate.

b. Language Interpreters

- LAO allows **up to 10 hours** without prior authorization for the purposes of solicitor and client meetings.
- The first hour is compensated at the rate of **\$31.40** and **\$19.20** is paid for each subsequent hour, to a **maximum of 10 hours**.
- Counsel must seek prior authorization to exceed 10 hour pre-authorized maximum
- When an interpreter is not available at LAO rates, prior authorization is required

c. Sign Language (ASL) Interpreters

- LAO allows up to **10 hours** of ASL interpreter services without prior authorization for solicitor/client meetings, payable at the rate of **\$55.00 per hour**.
- Counsel must seek prior authorization to exceed the 10 hour pre-authorized maximum.
- Some sign language interpreters provide assistance without charge in cases in which the legally aided client is on a contributory certificate and is required to make periodic payment to legal aid or has signed a lien.
- Some sign language interpreters provide assistance without charge in cases in which the legally-aided client is on a free certificate but may be required to reimburse LAO from funds recovered as a result of the litigation.

**note regional differences*

d. Interpreters for Court Proceedings

- LAO does not authorize interpreter services for court or tribunal proceedings.
- Prior approval is required for proceedings in Unified Family Court, as in most jurisdictions an interpreter is provided by the Court without charge.
- Lawyers should advise the clerk when filing the application or answer that an interpreter will be required in order that the coordinator of Trial Services may ensure that an interpreter is available should the matter reach trial.

** note regional differences*

Mediation

a. Family Law / Child Protection Matters

- Prior authorization is not required for up to **10 hours** of mediation in family law matters.
- Mediation costs are apportioned between the parties.
- Prior authorization is not required for up to **5 hours** of mediation in child protection matters (it is expected that the Society will fund the same amount of hours as the legally-aided client(s)).
- Mediators are paid at an hourly rate based on credentials.
- Mediators who are lawyers are paid in accordance with LAO panel member tier rates.
- Counsel must request authorization for additional mediation hours.

b. Civil Litigation/ Ontario Mandatory Mediation Program

- Legally-aided clients are exempt from the fees established for mandatory mediation under rule 24.1 of the *Rules of Civil Procedure*.
- Please ensure that the mediator is aware that your client is legally-aided and that the fees charged are in accordance with the LAO rates.
- Rates should be proportionate to the number of parties.

Medical Records

Civil/ Criminal/ Family/ Child Protection

- LAO generally allows up to **\$150.00** without prior approval for a legally-aided client's medical records or their child/ children.

Medical Reports

Civil/ Criminal/ Family/ Child Protection

- LAO pays up to **\$200.00** without prior approval for one medical report from a legally-aided client's treating general practitioner/ family doctor.
- LAO pays up to **\$300.00** without prior approval for one report from a legally-aided client's treating specialist.
- LAO will pay for one medical report in immigration proceedings to substantiate the legally-aided client's claim or the claim of any other adult claimant joined in the application.
- Prior approval must be obtained if more than one report is required.
- Reports regarding the legally-aided client's child/children are paid in accordance with the above rates.
- Prior approval must be obtained if the reports required are regarding the opposing party or complainant.

Medical – Legal Reports

- For use in personal injury or malpractice actions, workers compensation claims, and disability pension claims (note that these certificates are rarely issued).
- LAO pays up to a maximum of **\$200.00** medical report from the client's family doctor or general practitioner for personal injury or malpractice actions, workers compensation or disability pension claims.
- LAO pays up to a maximum of **\$500.00** report from a specialist treating a client up to for personal injury or malpractice actions; or up to a maximum of **\$300.00** for workers compensation or disability pension claims.

- Where a matter has been authorized for coverage after an opinion has been rendered, LAO pays up to a maximum of **\$500.00** for a third medical-legal report from a specialist, for personal injury or malpractice actions.
- Cost of reports must be 10% or less of the estimated recovery set out in the opinion letter.

Non-Medical Records

Civil/ Criminal/ Family/ Child Protection

- LAO pays a maximum of **\$150.00** without prior approval to obtain non-medical records.
- Non-medical records can include:
 - School counselor's records;
 - Cell phone records;
 - Police records.
- Prior approval must be obtained if the records required are regarding the opposing party or complainant.

Non-Medical Reports

Civil/Criminal/Family/Child Protection

- LAO pays a maximum of **\$150.00** without prior authorization for one non-medical report.
- Non-medical reports may include:
 - Family Responsibility Office Statement of Arrears;
 - Police Occurrence Reports;
 - Sentencing reports prepared by a legally-aided client's treating physician or specialist.

Note

LAO does not pay for Pre-Sentence Reports, which are funded by the court.

- Prior approval must be obtained if more than one report is required.
- Prior approval must be obtained if the reports required are regarding the opposing party or complainant.

Out of Province Lawyers

- LAO does not pay for non-LAO panel members to provide services as counsel or as agents.
- Agents' accounts are not to be billed as disbursements.
- Where a legally-aided client has an inter-jurisdictional proceeding, the client must obtain legal aid assistance in the other jurisdiction.

Paternity Testing/DNA Testing

- Prior authorization must be sought by counsel for each legally-aided party.
- LAO is not bound by court orders made without notice to LAO.
- Parties/counsel should NOT consent to an order for testing without prior authorization.
- Up to **\$425.00** is generally authorized for testing, apportioned between the parties' certificates where both are legally-aided.
- Authorization of testing on one legally-aided client's certificate does not guarantee that testing will be authorized on other legally-aided client's certificate. Each request is considered independently and a decision made based upon the merits.
- For child protection proceedings, where appropriate, counsel should seek an order under section 10 of the CLRA such that the Society is responsible for the cost.
- Authorization may be granted where paternity testing will support a legally-aided client's status as a parent in a CFSA proceeding if the Society refuses to fund paternity testing.
- Authorization may be granted in cases in which the mother is seeking support if:
 - no presumption of paternity applies;
 - paternity is denied by the putative father;
 - the putative father is able to pay child support or will become able to pay support such that there is a direct personal or financial benefit to the mother;
 - the putative father may suffer a direct personal or financial consequence if ordered to pay support.
- In cases in which a presumption of paternity applies, authorization will only be granted where there is significant evidence rebutting the presumption.
- In cases where there is a current order for support and paternity has been found, authorization will not be granted without significant evidence to support the denial of paternity in subsequent proceedings.
- In cases where the putative father has acted *in loco parentis*, or where there is an established relationship between the putative father and the child/children, authorization will not be granted without significant evidence to support the denial of paternity.

- In custody cases, authorization may be granted where testing will assist in determining the child's best interests regarding access, such as in cases where the mother is denying paternity.
- In immigration or refugee proceedings, authorization for testing may be granted in order to establish a family connection in cases with sufficient merit.

Psycho-Sexual Testing (including Phallometric Testing)

- Prior approval must be obtained in all cases.
- Phallometric testing is generally authorized as a block-fee of **\$500.00** in conjunction with psychiatric or psychological assessment.

Photocopying (Out-of-Office)

- A higher rate is allowed for copies of documents that are not in counsel's control, and that are made at a location other than counsel's office.
e.g. at the court offices, libraries, or publishers
- Receipts for out-of-office copies should be attached to accounts.

Print Crown Disclosure from Disc

- LAO will allow up to **\$25** (250 pages at \$0.10 per page)
- Prior authorization is required for larger amounts.

Private Investigators

- Prior approval is always required.
- LAO generally authorizes between **3 and 5 hours per witness** at the rate of **\$52.50 per hour**, which includes travel time.
- Travel time is not generally granted for private investigator services.
 - If travel time is being sought by the investigator, details must be provided as to the estimate number of hours required for travel time including the area of travel and reasons why a local investigator cannot be retained.
 - The hourly rate payable is for all investigator services, including locating and interviewing witnesses, surveying crime scenes, taking photographs.
 - Mileage is payable at the rate of **\$0.40/km** (\$0.41/km in Northern Ontario).
 - Private investigators are authorized a maximum of **\$25.00** for digital media.
 - Detailed invoices regarding services rendered and distance travelled are required.

- Investigators' invoices and accounts should detail the names of all persons providing investigative services, dates of services and should describe services provided.
- Out-of-pocket expenses of the investigator should be itemized and supported by receipts and invoices.
- Prior authorization must be sought should the private investigator's attendance at court be required.
- LAO rarely authorizes the services of an investigator for surveillance purposes or for two investigators to work in tandem. Specific prior authorization must be sought.

Polygraph Tests

- Lie detector testing is rarely authorized by LAO, as the results are not admissible as evidence for the purposes of court proceedings.
- If such testing is authorized, it is in cases where the Crown has agreed to withdraw charges based on the results.

Search Fees (Corporate, Title, Drivers License, Etc.)

- Prior authorization must be obtained for all searches.
- Fees listed do not include fees charged by persons/ process servers etc. who conduct the search.

a. Title Searches – Real Property

- Prior authorization is not required for one (1) sub-search of property in which the legally-aided client has or claims an interest, or for the purpose of determining whether an opposing party can satisfy a settlement or judgment.
- The fee generally authorized is a maximum of **\$50.00** per search.

b. Drivers License Searches

- LAO pays for drivers' license searches for the purposes of effecting service.
- The fee generally charged by the Ministry of Transportation is **\$20.00** per search.

c. Corporate Searches

- LAO pays for corporate searches if they are reasonably necessary for the proceedings authorized by the certificate.

Secure Electronic Document Exchange (Family and CFSA)

- LAO will allow up to **\$20** per year per certificate, up to a maximum of **\$60** for 3 years.
- Prior authorization is required if the amount will exceed **\$60**.

Service & Filing

a. Within Ontario

- LAO will pay reasonable fees for service and filing of documents within Ontario.
- Service and filing should not be billed on an hourly basis.
- Mileage for process servers must be charged at **\$0.40/km** (\$0.41/km for Northern Ontario).
- LAO does not pay rush service/ filing fees or expedite fees.
- LAO does not pay for attempts at service/filing which were unsuccessful as a result of counsel's error or inadvertence.
- LAO does not pay waiting time for process servers.
- No other expenses are paid for service/filing other than set fees and mileage.
- Process server invoices must include all relevant details, including names and address of parties served, relevant documents, dates, distance travelled in kilometres.
- Process server invoices should be attached to all accounts whenever possible.
- Counsel should consider whether service and filing of documents and/or delivery of disclosure can be carried out electronically.
- Law clerks and/ or lawyers acting as agents for the purposes of service/filing are paid on an hourly basis in accordance with the tariff allotment for the certificate.
- Personal service should only be carried out when necessary, in the case of originating processes or motions for contempt.
- In family law proceedings, service is governed by Rule 6 of *Family Law Rules*.
- Adjournments by paralegals and process servers are considered a fee and are billable within the tariff allotments for the certificate. They are not billable as disbursements.

b. Outside Ontario

- LAO will pay reasonable costs, up to a maximum of **\$200.00**, without prior approval, for service of documents outside of Ontario (by the Sheriff of the appropriate county within Canada/ the US or by a process service) where the certificate authorizes the proceeding.

c. Substituted Service

- Certificate authorization includes reasonable fees to bring a motion for an order for substituted service where necessary.
- Prior authorization should be requested for substituted service by advertisement where the court has refused to make an order to dispense with service or for substituted service by mail.
- Service by advertisement is generally granted for one insert to a maximum of **\$450.00**.

Skip Tracer

- Prior approval is required to retain a skip tracer to locate a party or witness.
- LAO generally authorizes up to a maximum of **\$200.00** for skip tracing services.
- Authorization is granted only where no fee will be charged for unsuccessful search.

Therapy Treatment (including counselling sessions)

- LAO does not pay for a legally-aided client's therapy/ counselling sessions or ongoing treatment of any kind, which is the client's responsibility as a personal expense.

Transcripts

a. Generally

- Some transcripts are automatically authorized under a certificate and can be selected for billing from the list of regular disbursements. Other transcripts require prior authorization.
- Where transcripts must be added to the legally-aided client's certificate prior to an account being rendered, counsel should submit a written request for transcripts based on either a written estimate or an actual invoice. This will ensure immediate payment of your account when rendered.
- Invoices should be attached to all accounts and should include the transcriptionist's name, relevant dates and nature of court proceedings; number of pages, and the cost per page (either original or copy rate).
- LAO does not generally pay expedite fees for transcripts.
 - As of May 1, 2014 the *Administration of Justice Act* permits expedite fees to be charged for transcripts of civil or criminal court proceedings.

- It is recommended lawyers discuss with the transcriptionist whether or not transcripts need to be expedited and confirm the rate prior to ordering transcripts. Otherwise the expedite rate may be charged when it is not necessary.
- LAO will not pay for transcripts of refugee matters, as these are provided free of charge by the IRB once leave to appeal has been obtained.
- In all cases a detailed invoice, including name of transcriptionist, dates and nature of court proceedings, the number of pages, whether copies or originals and the cost per page is required.
- For transcripts ordered on or after May 1, 2014, LAO recommends the electronic copy be requested at no extra charge

Type	Order prior to May 1/14	Ordered on or after May 1/14
Original transcript	\$3.20 per page	\$4.30 per page *
Copy of transcript	\$0.55 per page	\$0.55 per page *
Court of Appeal transcript	\$3.75 per page	\$4.30 per page *
Expedite	n/a	\$6.00 per page *
Daily	n/a	\$8.00 per page *
Reproduction electronic	n/a	\$20.00 per transcript
Minimum fee	n/a	\$20.00 per transcript

* Includes electronic copy at not extra charge if requested at the same time

b. Witness Statements (DVD)

- Always require prior authorization.
- LAO generally authorizes transcription of witness statements for the purpose of assisting in cross-examination of the witness.
- Transcription of the legally-aided client/ accused's statement is rarely authorized.
- Legal Aid's standard rate is **\$3.20 per page**. Normally three minutes of statement can be transcribed to two pages.

e.g. Complainant's statement, 105 minutes in duration
 $(105 \div 3 \times 2) = 70 \text{ pages @ } \$3.20 \text{ per page} = \224.00

- If copies of the transcripts are required, the maximum payable is **\$0.10 per page**.

c. Bail Hearing Transcripts

- Up to **100 pages** of bail hearing transcripts can be obtained without prior approval where the certificate authorizes a bail review/ bail *de novo*. Where a bail review is authorized, transcripts can be selected for billing from the list of regular disbursements.
- Bail hearing transcripts are paid at the rate of **\$5.40 per page**, comprised of one (1) original and two (2) copies. **Where the number of pages of bail hearing transcripts exceeds 100 pages, counsel must provide a copy of the transcriptionist's invoice in advance of billing so that appropriate authorization can be added to the certificate.**
- Invoices must be attached to accounts when rendered.

Note

By default, transcriptionists will provide transcripts for a bail review in two days and charge the expedite rate. Lawyers must clearly indicate transcripts are not required in two days when placing an order. LAO will not pay the expedite rate where it is clear transcripts were not required in two days.

d. Section 11(b) Motion Transcripts

- Prior approval is not required up to a maximum of **\$200.00** (approximately 35 pages) to obtain transcripts of the legally-aided client's previous court attendances for the purposes of an application to stay proceedings, however authorization must be added to the certificate prior to submitting an account.
- Counsel must provide an estimate as to number of pages in advance of billing so that appropriate authorization can be added to the certificate.
- Prior approval is required if the cost will exceed \$200.00
- Invoices must be attached to accounts when rendered.

e. Preliminary Hearing Transcripts

- Prior authorization is not required to obtain an original/ first copy of preliminary hearing transcripts once the preliminary hearing has been completed and the matter is set for trial, at the rate of **\$4.30 per page** for one original. Counsel must provide a copy of the transcriptionist's invoice in advance of billing so that appropriate authorization can be added to the certificate.
- Prior authorization must be requested to obtain transcripts of ongoing preliminary hearing proceedings.
- Transcripts of ongoing preliminary hearing proceedings are generally not authorized unless:
 - the evidence of a critically important witness is requested;

- there has been a significant amount of time (e.g. three months) between hearing dates;
 - there has been a change of solicitor; or
 - some other exceptional circumstance.
- A second copy of preliminary hearing transcripts, at the rate of **\$0.55 per page** may be obtained without prior approval where the Crown or Court has ordered the original/ first copy in respect of the criminal proceeding authorized on the certificate.
 - Invoices must be attached to accounts when rendered.

f. Trial Transcripts (Ongoing Trial)

- Prior authorization must be requested to obtain an original/ first copy of transcripts of ongoing trial proceedings.
- Transcripts of ongoing trial proceedings are generally not authorized unless:
 - the evidence of a critically important witness is requested;
 - there has been a significant amount of time (e.g. three months) between trial dates;
 - there has been a change of solicitor; or
 - some other exceptional circumstance.
- A second copy of ongoing trial transcripts, at the rate of **\$0.55 per page** may be obtained without prior approval where the Crown or Court has ordered the original/ first copy in respect of the criminal proceeding authorized on the certificate. Second copies can be selected for billing from the list of regular disbursements.
- Invoices must be attached to accounts when rendered.

g. Reasons for Judgment and/or Sentencing

- For “opinion only” certificates, prior approval is not required to obtain transcripts of reasons for judgment and/or sentencing, and also charge to the jury, to a maximum of **50 pages** at the rate of **\$4.30 per page**.
- Prior authorization is required to order additional portions of transcripts or transcripts in excess of 30 pages.
- Transcripts of any other portion of proceedings will generally not be allowed whether or not the lawyer preparing the opinion represented the legally-aided client at trial.

h. Appeal Transcripts (to the Court of Appeal or Divisional Court)

- Where a certificate for appeal to the Court of Appeal or Divisional Court has been issued, prior approval is not required to order transcripts to conduct the appeal.
- Appeal transcripts for the Court of Appeal are paid in accordance with the *Administration of Justice Act*, namely **\$4.30 per page** (one original/ first copy and all necessary copies).
- Counsel must provide a copy of the transcriptionist's invoice in advance of billing so that appropriate authorization can be added to the certificate.
- LAO requires that counsel for multiple co-accused who are legally-aided coordinate the cost of transcripts.
- In cases with multiple co-accused, LAO will pay for **one** original transcript only, at the rate of **\$4.30 per page**. Copies should be provided at no cost.
- Counsel for the legally-aided client must ensure that only one appeal transcript is paid.
- Lawyer Services and Payments will make advanced payment for transcripts in some cases, upon receipt of a written estimate from the transcriptionist detailing the number of pages, court dates, and cost per page.
- In keeping with the new model for ordering court transcripts introduced June 9th, 2014, the procedure for advanced payment for transcripts is as follows:
 - Transcriptionists must provide a realistic estimate of the cost of the transcription and invoice only **two-thirds** of the entire cost at first instance.
 - Once the estimate is provided to LAO, the appropriate authorization will be added to the legally-aided client's certificate, at which time counsel should render an online account with the estimate attached.
 - Once the account has been paid, counsel may remit a deposit to the transcriptionist. The amount of deposit is subject to the arrangement negotiated between counsel and the transcriptionist.
 - Counsel may make further payments when requested and prior to the receipt of the transcript.
 - Advise Lawyer Services and Payments in writing should additional transcripts be required or should the two-thirds estimate be insufficient or alternatively, higher than the actual amount required.
 - If an overpayment has been made, remit the difference to LAO.
 - A copy of the transcriptionist's final invoice providing the reconciliation for interim funds/deposits received and actual number of pages of transcript prepared should be forwarded to LAO in order that the remaining transcripts may be added to the certificate.
 - Submit an online account attaching the transcriptionist's actual invoices should any additional payment be required.

i. Civil Proceedings, Questioning/Examination Transcripts

- LAO pays out of court examination fees if in accordance with the rates set out with the rates set out in s. 5(1) of the Schedule of Fees, *Administration of Justice Act*, as follows:

For the transcript of an examination, per page, regardless of the party ordering,

- i. for one copy of the first transcript ordered - \$4.00
- ii. for one copy of each transcript ordered after the reporter has satisfied the order for a transcript described in subparagraph I - \$3.40
- iii. for each additional copy ordered before the reporter has satisfied the order for a transcript described in subparagraph i or ii - \$0.80.”

**note regional/district differences re reporters’ rates.*

- Prior approval is required to order the first or original copy of transcripts of the legally-aided client’s evidence or their client’s witnesses.
- In civil litigation cases, make sure that the certificate includes authorization for examinations for discovery before rendering an account.
- Prior approval is required for transcripts of cross-examinations on affidavits.

j. Other Transcript Requirements

- Prior authorization is required to obtain all other transcripts, including matters where a legally-aided client’s criminal proceeding transcripts are required for the purposes of their family law or child protection proceedings.

Translation of Documents

a. Generally

- Translations are generally paid on a per-word basis.
- Counsel should not have translated any documents which do not contain unique information.
- Multilingual counsel will not be paid for translating documents on a per word basis in addition to hourly rates.
- LAO pays up to a maximum of **\$50.00** without prior approval for translation of the legally-aided client’s marriage/ divorce certificate (250 words at \$0.20 per word).
- Prior authorization must be obtained for translation of more than one marriage/ divorce certificate.
- Verbatim translation is expensive and should not be used if possible.

- Counsel should always ensure that no English language alternative source is available before having translations completed. Counsel should also ensure that information can be sufficiently verified to be accepted by the court or tribunal.
- Accounts in which translations are billed as disbursements should be submitted with a copy of the translator's invoice providing a list of the translated documents and the number of words translated. This is the case even where translations are within the pre-authorized limits.

b. Immigration and Refugee Matters

- Prior approval is not required for up to **3500 words** for a combination of **identity** and/or supporting documents at the rate of **\$0.20 per word**.
- Documents from a government agency or other official body are considered identity documents.
- If the legally-aided client has a genuine English version passport, it is expected that minimal identity documents will be required for translation.
- Prior authorization must be obtained before additional translation of documents is completed. When requesting additional translation authorization, counsel must provide details as to the documents' contents and the number of words.
- Personal correspondence is considered supporting documentation.
- Prior authorization is always required for translation of news articles and documents downloaded from the internet. Counsel should provide details of the information contained in the article (date, location, names and relationships to the claimants) and explain how the articles support the claim.
- Regarding BOC narratives, verbatim translation is discouraged. Translators/ interpreters should be retained to review the narrative and discuss with counsel and the legally-aided client at hourly interpreter rates.
- LAO will not pay to have an English-language BOC narrative translated into the legally-aided client's first language.

c. Other Matters

- LAO generally pays **\$0.20 per word** for translations.
- Pursuant to the *Courts of Justice Act*, the official languages of Ontario are English and French. Pursuant to s. 126(6) of the *Courts of Justice Act*, litigants are entitled, as a right, to receive French translations of any court materials written in English. Translation of court documents from English to French is not paid for by LAO.
- Prior authorization must be obtained for translation of documents for the purposes of any other proceedings.

Travel Disbursements

- Travel disbursements can only be billed to LAO if the legally-aided client's certificate includes travel authorization.
- Counsel must obtain travel authorization from the District Office from which the certificate was issued. Where travel has been authorized on the certificate, prior approval is not required for the costs of associated travel disbursements, provided the costs do not exceed the maximums set out herein.
- Where travel is authorized, a maximum of **\$150.00** per one-night hotel accommodation is permitted between consecutive court dates.
- Where travel is authorized under the certificate, mileage is payable at **\$0.40/km** (\$0.41/km in Northern Ontario).
- Where travel is authorized under the certificate, a maximum of **\$50.00 per day** is permitted for meals.
- Train/ air fare is payable where travel is authorized under the certificate. It is expected that counsel will book economy class fares / select the most cost effective means of travel in all cases.

Important

Do NOT include HST to travel disbursements.

- All travel disbursements should be entered net of HST, which is automatically added and paid by LAO.
- The actual amount paid, net of HST, for travel disbursements such as hotel, train/ airfare and meals, should be entered when submitting an online account.
- Reasonable gratuities (approx. 15%) for meals, bellhop, hotel room services and taxis will be reimbursed, provided that maximum amounts are not exceeded.
- Meal receipts should not include alcoholic beverages even if not being billed to LAO.
- Counsel should submit invoices and receipts hotel and air/ train fare disbursements to Lawyer Services and Payments, prior to rendering an online account, so that the appropriate authorization can be added to the certificate. This will ensure immediate payment of your account when rendered
- Where travel is authorized under the certificate, counsel is paid for travel time on an hourly basis in accordance with the appropriate tier level.

Refer to Travel Chapter of Tariff and Billing Handbook for additional information

Witnesses and Witness Fees (Non-Experts)

a. Civil Proceedings

- LAO covers the cost of payment of attendance allowance in accordance with Tariff A of the *Rules of Civil Procedure* to witnesses in civil proceedings under subpoena, namely **\$50.00** per witness per day plus travel allowance of **\$3.00** per day for in-town travel or **\$0.24/km** for out-of-town travel.
- Trial authorization must be included on the certificate in order for witness fees to be payable.
- Prior approval is required for witness fees, travel expenses for friends or relatives of the legally-aided client.
- LAO does not usually pay witness fees or travel expenses for friends or relatives of the legally-aided client.

b. Family Law Proceedings/ Child Protection Proceedings

- LAO covers the cost of the payment of attendance money in accordance with Rule 23(4) of the *Family Law Rules*, namely **\$50.00** for each witness to attend at court, plus **\$5.00** for in-town travel or **\$0.30/km** for out-of-town travel.
- Trial authorization must be included on the certificate in order for witness fees to be payable.
- Prior approval is required for witness fees, travel expenses for friends or relatives of the legally-aided client.
- LAO does not usually pay witness fees or travel expenses for friends or relatives of the legally-aided client.

c. Criminal Proceedings - Indictable Offences (Defence Witnesses)

- Prior approval is required for witness fees, travel expenses for friends or relatives of the legally-aided client.
- LAO does not usually pay witness fees or travel expenses for friends or relatives of the legally-aided client.
- In accordance with Regulations 4 and 11 made under the *Administration of Justice Act* (R.R.O. 1990), LAO pays **\$0.30/km** (\$0.35/km in Northern Ontario) for ordinary out-of-town travel.
- LAO covers the cost of travel allowance for a witness who does not reside in the city or town where the trial is held:
 - for travel other than by car, a travel allowance equal to the fare paid for the travel;
 - where required to attend the trial on more than one day, a travel allowance is paid for each day's travel;

- where required to remain overnight at the city or town where the trial is held, reasonable living expenses are allowed.
- Any other travel expenses require prior authorization and must be requested in writing.

d. Criminal Proceedings - Summary Conviction Matters (Defence Witnesses)

- Prior approval is required for witness fees, travel expenses for friends or relatives of the legally-aided client.
- LAO does not usually pay witness fees or travel expenses for friends or relatives of the legally-aided client.
- In accordance with the Schedule to 840 (25) and (26) of the *Criminal Code*, LAO pays a witness fee of **\$4.00/day** plus **\$0.06/km** for other witnesses.

Refer to section on Experts for further information regarding expert witnesses.

10. Tips for Fast Payment

Prepare your account *Online* as an interim account.

- Submit your electronic disbursement request through *Legal Aid Online* using the electronic document submission or iFax process. This will result in faster processing of your request and, if approved, your ability to bill the disbursement *Online* sooner.
- Disbursements must be itemized in your account and invoices retained in your file.
- Make sure all invoices show the:
 - Name
 - Address
 - Phone Number
 - Breakdown of fees
 - Dates, times and details of service.
- LAO may request copies of invoices to support amounts claimed on your account or for Post-Payment Examination.
- Disbursement accounts can be submitted at any time after the total cost of disbursements is \$50.00 or more.
- A disbursement account for less than \$50.00 is accepted only if it is submitted in order to comply with the billing deadlines.
- For billing concerns or questions relating to disbursement contact the Lawyer Service Centre prior to billing an online account at their toll free number 1-866-979-9934.

11. Billing Disbursements Online

Submitting an account online for fees and disbursements is quick and easy. Ensure that the work that you did is accurately entered into our automated online billing system to avoid delays in payment of your account.

You may submit a disbursement only account through Legal Aid Online. Interim disbursements accounts must be a minimum of \$50.00 before they can be submitted online. When submitting a disbursement account, you must select at least one charge (in criminal matters). In civil matters it is not necessary to select a certificate authorization. To select a disbursement item(s) to be billed click **Add Disbursements** from the online account. Once Add Disbursements is selected, a list of disbursements will appear. You may select the appropriate disbursement items to bill and once selected click **Add and Return** at the bottom of the disbursements list.

Note

The list of Regular disbursements is directly associated to the authorized services of the Certificate. E.g. Custody/Access assessment will only appear on Civil- Family Law Certificates.

You will now be able to fill in the values of the disbursements items. In some cases you will be required to insert the quantity of pages (e.g: office photocopies, faxes), the number of hours spent (e.g. assessments), or the total cost of the disbursements (e.g.: hospital records). To make sure your account is properly calculated and processed, you must complete **every** field that shows for each disbursement. Ensure you properly fill in the fields to avoid delay. Should you have any questions or concerns in rendering an account please contact the Lawyer Service Centre **prior** to billing an online account at their toll free number 1-866-979-9934.

11.1 Special Disbursements

Once you have been approved for a disbursement requiring prior approval the disbursement(s) will be listed in the Special Disbursements section of the Online account. You must complete **every** field in order to properly bill the special disbursement. Please note that special disbursements authorizations will not appear on a 'saved as draft.' Account if the special authorization was granted after the online account was saved as draft.

11.2 Regular Disbursements

Disbursements that do not need special authorization and can be billed in accordance with the restrictions and guidelines set out in the Tariff and Billing Handbook. The

number of regular disbursement items available will vary and depends on the nature of the proceedings/services authorized on the certificate.

11.3 Supporting Documentation/Disbursements

Even though an invoice may not be required to be submitted with your account, you are required to hold the invoice in your file, and make it available if requested by Legal Aid Ontario. If you are not able to provide a proper invoice or other supporting documentation when requested, you may be required to reimburse LAO.

If the amounts billed for disbursements are excessive or not in accordance with reasonable commercial rates or the limits/restrictions as listed in the Disbursements Handbook, Lawyer Services and Payments may request copies of invoices and an explanation before payment is made.

TO AVOID DELAYS in payments of your accounts, please ensure you scan and attach your detailed invoices to your Online Account. Contact the Lawyer Service Centre at their toll free number 1-866-979-9934 for assistance on attaching documents.

12. How to Complete the Disbursement Forms

Lawyer Payments has created electronic forms to simplify the process of requesting prior authorization. You can electronically submit the completed forms through *Legal Aid Online* using the electronic document submission or iFax process.

The forms cover four areas:

- Paternity Testing
- Transcripts
- Translations
- Experts - Other service provider

When submitting your request ensure you fill in the form in its **entirety** to avoid delay.

Where to find the forms

Disbursement Authorization Request forms can be found on Legal Aid Ontario's website at <http://www.legalaid.on.ca/en/info/forms.asp>

For questions you may have regarding the disbursement forms, please contact the Lawyer

Service Centre their toll free number at 1-866-979-9934.

13. Important Information

Effective Date of Certificate

The effective date of the certificate is the starting date for coverage under the certificate for lawyer's fees and disbursements.

Obtaining Authorization

Obtain authorization for disbursements from Lawyer Services & Payments for all non-case managed certificates.

Requests are submitted electronically through Legal Aid Online using the electronic document submission or iFax process.

Disbursement Authorization Request forms can be found on Legal Aid Ontario's website at <http://www.legalaid.on.ca/en/info/forms.asp>

Disbursements Prior to Effective Date

If disbursements have been incurred prior to the effective date you must contact your local district office to request a change to the effective date of the certificate. If the disbursement requires prior authorization, you must obtain authorization for the disbursement from Lawyer Services & Payments. If you or another lawyer acted for the client on a private retainer prior to the effective date of the certificate.

Note

Disbursements incurred during the course of the private retainer arrangement are not covered under the certificate.

Cancellation of Certificate

If you receive notification that the certificate has been cancelled, do not undertake any disbursement expenses. Ensure you stop the work of any experts who may be working on the case.

Request for Reconsideration

If your initial request for authorization for a disbursement is refused or not allowed as requested, you can request reconsideration by Lawyer Services & Payments. Your request must be in writing, and you must provide reasons.

14. Frequently Asked Questions

1. Can I send my disbursement request by email?

No. All disbursements requests should be submitted electronically through the portal, using the Electronic Document Submission program or by iFax. This ensures the request is directed to the appropriate person and responded to quickly.

For BCM cases please fax (416) 204-4710.

2. Do I need to attach all of my disbursement invoices to my Legal Aid Online account?

You are not required to attach all your disbursement invoices to your Legal Aid Online account. LAO can however, request that you produce all invoices at any time to support your disbursement account prior to payment and for a Post-Payment Examination audit. It is recommended that you scan and attach your detailed invoices to your Online account to avoid delays. Contact the Lawyer Service Centre at their toll free number 1-866-979- 9934 for assistance on attaching documents.

3. Do you have a list of disbursement service providers that will provide Legal Aid services?

We may be able to provide you with the names of services providers who have provided services to Certificate lawyers in the past at Legal Aid rates. Legal Aid does not endorse or recommend any service providers but attempts to provide information that might enable a lawyer to locate a service provider who has worked at Legal Aid rates.

4. Why doesn't a disbursement authorization show up on my 'saved as draft' Online account?

If you have saved an account in draft prior to receiving disbursement approval, authorizations will not show up on your account. You should avoid starting and saving a draft Online account pending disbursement or authorization approvals.

Contact the Lawyer Service Centre at their toll free number 1-866-979-9934 for more information

5. How do I bill an online account for disbursements only?

See [Billing Disbursements Online](#) (section 11) for a step by step guide on how to submit a disbursement only account

6. When will I get a response to my request?

Disbursement requests are usually processed in 3 to 5 business days.

You will receive a response to your request for disbursement electronically through *Legal Aid Online*. Check the Correspondence section on the portal for the response.

7. Do you have a list of interpreters approved by LAO?

Contact Lawyer Services and Payments as we may be able to provide you with names of interpreters who in the past have agreed to accept a Legal Aid retainer.

Appendix A: Disbursements quick reference chart

Type of Disbursement	Rate
Access Centre Reports/Observation Notes	\$250.00 max
Agents	See Alphabetical List
Appraisals/Valuations	See Alphabetical List
Assessments and Critiques	See Alphabetical List
CAS Records and Disclosure	\$300.00 max, \$0.10/page
Computer Research	Not billable as disbursement
Court Filing Fees	Certificate authorization required
Crown Disclosure	Prior authorization required
Digital Audio Records	Prior authorization required if more than 1 day
Digital Media	See Alphabetical List
Drug Testing	\$180.00 (5 panel hair follicle); prior authorization required
Examinations (Out of Court) & Questioning, Discoveries	See Alphabetical List
Experts	Prior authorization required
Fees	See Alphabetical List
<i>Gladue</i> Reports	See Alphabetical List
Hospital Records	\$150.00 maximum, \$0.20/page
Interpreters	See Alphabetical List
Mediation	See Alphabetical List
Medical Records	\$150.00 maximum
Medical Reports	See Alphabetical List
Medical Legal Reports	See Alphabetical List
Non-Medical Records	\$150.00 maximum
Non-Medical Reports	\$150.00 maximum
Out of Province Lawyers	See Alphabetical List
Paternity Testing/DNA Testing	\$425.00 max; prior authorization required
Phallometric Testing	\$500.00 max; prior authorization required
Photocopying (Out of Office)	Only for documents not in lawyer's control
Polygraph Tests	Rarely authorized

Type of Disbursement	Rate
Printing Crown Disclosures	Limited threshold of 250 pages or \$25
Private Investigators	\$52.50/hr max; prior authorization required
Psychosexual Assessments (including Phallometric Testing)	See Alphabetical List
Searches	Prior authorization required
Secure Electronic Document Exchange	See Alphabetical List
Service and Filing	See Alphabetical List
Skip Tracer	Prior authorization required
Therapy/Treatment	Never authorized
Transcripts	See Alphabetical List
Translation of Documents	See Alphabetical List
Travel Disbursements	See Alphabetical List
Witnesses and Witness Fees	See Alphabetical List

Appendix B: Hourly Rates quick reference chart

Type of Disbursement	Hourly Rate
Expert Travel	\$43.00/hour + \$0.40/km
Bachelors Degree	\$90.00/hour
Masters Degree	\$100.00/hour
Pharmacologist/Toxicologist (PhD)	\$150.00/hour
Registered Psychologist (PhD)	\$150.00/hour
MD, Specialist	\$175.00/hour
Pathologist	\$200.00/hour
Psychiatrist	\$200.00/hour
Language Interpreter	\$31.40/first hour, \$19.20/subsequent hour
Sign Language Interpreter	\$55.00/hour
Private Investigator	\$52.50/hour