

FAMILY COSTS MAXIMISATION

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EFFICIENCY AND MAXIMIZING COSTS

- Public funding certificate- scope and limitations
- Claimable costs and time allowances in CCMS.
- POA's and regulating cashflow during the lifetime of the certificate.
- Enhancements specific to family cases.
- Update as to LAA v Court assessments
- Q&A



PUBLIC FUNDING CERTIFICATES

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Scope and Costs Limitations

- Scope Limitations- Are you covered for all work you are undertaking?
- Level 3 and Level 4 work
- Costs Limitations- What does it cover? Have you got enough? Are you approaching £25K? Has there be a transfer of provider?
- Checking the certificate when received- you can also claim for doing so!
- Streamlined approach to Family Work



CLAIMABLE COSTS AND ALLOWANCES FOR CCMS ACTIVITIES

CLAIMABLE COSTS

Profit Costs

- Are you claiming for all work that you have done? Are you claiming for all work that you are entitled to?
- Are you claiming for work that is considered non-claimable? Could it affect your KPI's or delay the claim getting paid?
- Main rules are set out in Section 2 of the Costs Assessment Guidance and the Civil Finance Electronic Handbook is useful.

CLAIMABLE COSTS

Attendance Notes

- A well maintain file should detail every item of work that is to be claimed
- The LAA require the evidence of work as part of the assessment process (if in excess of 3 hours) and as part of any audit
- Estimated time is unlikely to be allowed without supporting evidence.
- The file note must be sufficiently detailed to justify the work that was carried out.
- Attendances over 24 minutes should contain some detail showing the instructions taken or the advice given or how the case was progressed
- The longer the attendance, the more detail would be expected.

CLAIMABLE COSTS

Attendance Notes

File Note

File:

Fee Earner:

Date of Typing: 03/08/2020

Date of Attendance : 30 June 2020

Type of Attendance :

Time Taken:

Perusal of redacted police disclosure part 1

Crime report 22.1.18 – 5 pages – 2 units

Witness statement of Chanelle Johnson 24.10.18 - 1 page – 1 unit

ISR report for 22.1.18 – 11 pages – 4 units

- Caller is 13 years old, mother pinning sister onto the floor. Female was heard saying 'get off me, I can't breathe.' Also heard mother saying she is doing it to stop her hurting herself. Caller heard asking mother to stop and let go.

Crime report 6.2.20 – 4 pages – 2 units

ISR report 6.2.20 – 4 pages – 2 units

Crime report 12.2.20 – 7 pages – 3 units

- Redacted victim report M was constantly banging on the walls and shouting. At 6am, M stood by her open window and shouted at the victim 'you didn't get me out of my house this time.'

Written warning 11.3.20 – 2 pages – 1 unit

Crime report 2.4.20 – 6 pages – 2 units

ISR report 2.4.20 – 7 pages – 3 units

- M said someone called her a 'golly wog' and 'nig nog'. Also said someone threatened to throw a nail bomb into her house.

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Crime report 2.4.20 – 5 pages – 2 units

Handwritten statement – 2 pages – 1 unit

Crime report 16.4.2018 – 3 pages – 1 unit

ISR report 16.4.2018 – 7 pages – 3 units

- Caller did not know M but they had been talking for a week. M said people called her names like 'golliwog', made threats to petrol bomb her house.
- M named her neighbors making the comments.

Crime report 2.7.18 – 3 pages – 1 unit

ISR report 2.7.18 – 5 pages – 2 units

Crime report 5.6.18 – 4 pages – 2 units

Crime report 5.8.18 – 5 pages – 2 units

ISR report 6.6.18 – 4 pages – 2 units

ISR report 5.8.18 – 6 pages – 2 units

Crime report 13.8.17 – 5 pages – 2 units

ISR report 13.8.17 – 6 pages – 2 units

Crime report 8.9.17 – 4 pages – 2 units

ISR report 8.9.17 – 5 pages – 2 units

Crime report 29.8.19 – 3 pages – 1 unit

Crime report 29.8.19 – 3 pages – 1 unit

ISR report 29.8.19 – 7 pages – 3 units

- M reporting that her ex-partner was harassing her because he was seeing children. He had been outside the house shouting 'give me back my child maintenance money' and bringing friends with him to back him up

Handwritten statement – 1 page – 1 unit

Crime report 21.10.17 – 5 pages – 2 units

ISR report 22.10.17 – 5 pages – 2 units

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Crime report 9.12.18 – 5 pages – 2 units

ISR report 9.12.18 – 10 pages – 4 units

- M said her **neighbours** will throw a nail bomb into her house

Crime report 26.12.18 – 2 pages – 1 unit

ISR report 26.12.18 – 9 pages – 3 units

- M reported **neighbours**, friends of **neighbours**, and her ex were trying to enter her house.

Crime report 29.12.19 – 5 pages – 2 units

ISR report 29.12.19 – 4 pages – 2 units

Police email 21.2.20 – 1 page – 1 unit

Crime report 27.5.19 – 4 pages – 2 units

Crime report 27.5.19 – 3 pages – 1 unit

Crime report 27.5.19 – 3 pages – 1 unit

Total = 75 units

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CLAIMABLE COSTS

Profit Costs

- 6-12 minutes per page of A4 for preparing documents, but the LAA can allow more when justified
- 2 minutes per page of A4 for considering documents, but the LAA can allow more when justified
- CAG 1.32- Attendances can be reduced to 24 minutes if no detail of attendance

CLAIMABLE COSTS

Claimable items that can be claimed

- Preparing and updating Master Court Bundles- identifying documents and drafting index
- Sending Text or WhatsApp messages
- File Reviews- only if there has been a gap of one month between work
- Drafting long or complex letters- claimable as timed rather than a routine letter out
- CCMS Means
- Travelling to attend the Client in exceptional circumstances
- Preparing detailed file notes
- Checking the application of established law or procedural rules
- Legal research if it related to an unusual, developing or novel area of law

CLAIMABLE COSTS

Allowances for CCMS tasks

- Non-Merits Tested Application- 36 minutes
- Merits Tested Application – 48 minutes
- Completing the Means Information- 30 minutes
- Allocation of Costs to Counsel- 12-18 minutes
- All other amendments- 24 minutes
- Payments of Account- 12 minutes per POA
- Reporting outcomes with no costs or stat charge- 12 minutes (per aspect on the certificate)
- Reporting outcomes with costs or statutory charge- 24 minutes

CLAIMABLE COSTS

Allowances for CCMS tasks

- CCMS notifications- Claim as a letter in/out or on a time spent basis
- Preparation of your exceptional claim- LAA will allow 24-30 minutes per 10 items, but claim on a time spent basis
- Considering PFC's and discharged PFC- 6 minutes
- Preparing Notice of Discharge- 6 minutes
- Time for checking the exceptional claim once prepared?
- Time for uploading the claim and dealing with CCMS notifications- 24 minutes

NON-CLAIMABLE COSTS

- Purely administrative matters- including opening and setting up files, maintain time costing records and complying with the requirements of the contract.
- Overheads e.g postage
- Photocopying- unless exceptional
- Courier Fees- unless exceptional circumstances and it was reasonable to do so- Voluminous material, urgency?
- Letters sent with duplicate information- the test is one of whether it was reasonable in all the circumstances to send the letter.
- Multiple letters sent unreasonably.

NON-CLAIMABLE COSTS

- Telephone calls if they are administrative in nature, arise from previous oversight of the fee earner or they are abortive.
- Waiting time- should be claimed at the applicable waiting rate rather than the full prep rate.

FAMILY ADVOCACY SCHEME

What is included in the fee

- FAS covers all work that was necessary as a result of the advocate attending court.
- Prep- Attendance Notes, Court orders and position statements
- Travel
- Attendance at the hearing

- Ensure that you get your FAS form signed or get all the details recorded in the order for the hearing.

DISBURSEMENTS AND POA'S

DISBURSEMENTS

Expert Invoices

- All disbursements over £20 (including VAT) need to be provided in support of any claim for costs.
- 11% of claims were returned to provider for further information as to expert's fees.
- What information is required on the invoice??
 - The experts name
 - The expert's specialism/field of work
 - The address of the expert
 - When the expert is claiming travel- they need to state where they are travelling to and from- providing postcodes

DISBURSEMENTS

Expert Invoices

- The client's name
- A breakdown of the work undertaken to include hourly rate
- Ensure that your invoices are compliant on receipt to stop any delays in final claim getting paid

DISBURSEMENTS

Remuneration of Expert witnesses

- The LAA have updated their guidance on remuneration of expert witnesses

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925207/Guidance_on_the_Remuneration_of_Expert_Witnessesv6.pdf

- Prior Authority- Joint Expert Instructions
- Experts claiming higher hourly rate than codified rates

DISBURSEMENTS

Remuneration of Expert witnesses

- Rates for previously uncodified experts:
 - Endocrinologist- £108 per hour
 - Genetic Testing- £2250
 - Paediatric Haematologist- £122.40
 - Nephrologist- £108
- Recommended number of hours- Benchmark on 'unusual' number of hours for PA
- Translation Fees
- Process Server- Attempted Service

POA'S

Disbursements

- A POA can be applied for at any point providing the final bill has not been submitted
- Disbursement vouchers/invoices must be submitted if £20 or over
- Improve cash flow by making a POA once you have received an invoice/incurred a disbursement

POA'S

Profit Costs

- No POA for P/C in first 3 months of the grant of the certificate
- Providers can submit a maximum of 4 applications instead of 2 within any 12-month period
- Can make a 100% claim for any FAS incurred (used 'Non-Expert' option on CCMS)

ENHANCEMENTS

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What is an enhanced claim?

An enhanced claim is one where it may be argued that due to the exceptional nature of the case, a higher payment is warranted.

Minimum Guaranteed Enhancement vs Discretionary

Are you an applicable panel member?

- Children's Representative
- Resolution accredited
- Family Law Advanced

Maximum Cap on Enhancements

100%- Court of Appeal and High Court including cases in Family Court being heard by a High Court Judge

50%- Family Court- Circuit/District Judge or Magistrates

DISCRETIONARY ENHANCEMENTS

Two Stage Test

1. Threshold

- Is it an enhanced claim?

2. Criteria

- How much can be claimed

DISCRETIONARY ENHANCEMENTS

The Threshold Test

- At least one of the three factors must be met:
 - (a) The work was done with exceptional competence, skill or expertise;
 - (b) The work was done with exceptional speed; or
 - (c) The case involved exceptional circumstances or complexity.

DISCRETIONARY ENHANCEMENTS

The Criteria Test

- There are seven factors, grouped under three areas, to determine the amount to be claimed:
 - (a) Degree of responsibility accepted by the fee earner
 - (b) Care, speed and efficiency with which the fee earner prepared the case; and
 - (c) Novelty, weight and complexity of the case

DISCRETIONARY ENHANCEMENTS

How to Calculate the Amount

- Two Issues
 - Number of factors present
 - Strength of those factors
- A single factor can account for the whole enhancement
- Every case is fact specific- consider previous enhancements allowed

ASSESSMENT PROCEDURE

ASSESSMENT OF CLAIMS

Update

- What happened in August 2020?
 - No longer court assessments
- Assessments by the LAA since August 2020?
- Law Society lodged JR proceedings in September 2020
- High Court has formally endorsed a settlement of the Law Society's claim
- Fresh Consultation- Feb 2021 - March/April 2021

DE NEVO ASSESSMENT- FOLLOWING LAA ASSESSMENT

Any claim submitted to the LAA (that would have been assessed by the Court)

If you are unhappy with the LAA assessment of a claim that would have been assessed by the Court, then providers can have a de novo court assessment pending the outcome of the new consultation.

What needs to be done?

The provider must notify the LAA in advance of submission of the paperwork to court. The LAA will treat the existing payment as a POA, instead of a final claim.

A Bill of Costs will need to be prepared and submitted to the Court.

Following Assessment by Court?

If a claim is further reduced following the court assessment, the LAA will need to be notified and they will arrange the appropriate recoupment.

Subsequently you will need to create an 'appeal bill' in CCMS and inputting 'Appeal % Uplift Assessment' with the value of the claim being the balance between the original payment and amount allowed by the court.

QUESTION AND ANSWER

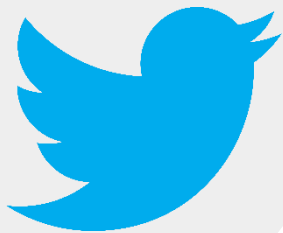




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