

JUVENILE COURT
POLICY/PROCEDURE

**PAYMENT FOR EXPERT WITNESS, OTHER COURT RELATED SPECIAL
COSTS,
AND SERVICES PROVIDED PURSUANT TO COURT ORDER**

POLICY

The Court will order payment for only those costs for services which are deemed necessary and/or required by statute or for those treatment services deemed necessary for which other sources of payment or reimbursement are not available. In some cases these services may be treatment or counseling services not already funded through the Department of Human Services (e.g. private providers of services vs. programs with whom the Department has a contractual arrangement). In these cases, if critical to the successful implementation of a treatment plan and/or ordered by the Court, the Department, pursuant to §48/938.36 and 48/938.361 the county may be liable for the cost of these services, but consideration of other services and the ability of the client/family to pay for the service should be given before entering any order.

In cases in which an expert witness is needed in Juvenile Court either at a trial or contested dispositional hearing, or for some other unusual expense (e.g. depositions) it is generally the responsibility of the District Attorney, Corporation Counsel, or Public Defender to determine, approve, and pay the expenses. If the court is asked to cover the expense:

1. Prior approval by the Judge is required only after submission of a written request for services, explaining the need and estimated time/expense
2. Reimbursement for services (including out of town mileage) is limited by rates established by the Clerk of Courts and approved by the Judges for services of psychiatrists, psychologists, social workers or other professionals. This rate must be communicated to the party prior to work commencing.
3. If the witness is noticed/subpoenaed to appear for court, the day of the hearing the court shall be notified of the exact time for which the witness has been noticed
4. Deposition costs will be paid at the county rate for court reporters, and requests for payment must include an itemization of the total number of pages. The attorney shall notify the reporter of these requirements.

The Court shall not order the Department to pay for services for services which were provided prior to any Court order for provision of those services (e.g. counseling by a private therapist prior to court order/authorization) without the consent of the Department.

PROCEDURE

In cases in which **the social worker** is recommending a plan that includes the provision of services, the worker should identify who is responsible for payment of the resource or service (see related Policy on Court Reports). The worker should consider the ability of the parent/client to pay for the service, availability of insurance coverage, etc. in making that recommendation. The worker may request that the parent complete financial statements to review prior to making such a recommendation.

In cases in which the request comes from **another party** (e.g. parent, attorney, GAL, SPD, etc.) consideration should be given by the court to the necessity of ordering the Department to pay for the cost of the desired services. Parties anticipating such a request should file a motion with the court (copy to HSD Corporation Counsel's Office, 1202 Northport Drive) at least **five** working days prior to the court's consideration of the motion. This motion may be considered in conjunction with other pending actions scheduled for the child or may be set on as a separate hearing by the court. In either case this will allow the Department to attend and have some input into the motion under consideration.

In all cases, unless otherwise determined by the Court (for therapeutic reasons) or required by statute, the parent(s) will be expected to contribute to the cost of services based on their ability to pay.

RATES OF PAYMENT

Unless otherwise specifically ordered by the Court, payment for services ordered by the Court shall be at rates recommended by the Clerk of Courts with approval of the Judges. Parties providing services to the Court should be made aware of these rates prior to commencing work, and no party shall represent a different rate of payment to a provider unless otherwise approved by the Court.

For services provided and/or paid for by the Department, Department policy provides that reimbursement for unfunded (non-contracted) court-ordered services (most often counseling, therapy, etc.) be made at the current Medical Assistance rates.

EXCEPTIONS/COMMENTS

Since MA rates (or those established by the Clerk of Courts) may be lower than usual and customary rates, some providers may not "accept" the MA rate, and the court may consider whether there is sufficient reason to order payment above/beyond those rates in order to maintain the level and quality of treatment necessary to meet the child/family's needs. In some cases, it is possible to arrange for a different provider without having a negative affect on the treatment. In others, the nature of the therapeutic relationship or the special needs of the child/family may outweigh the financial considerations. In any case, the court **should not** order payment above the established rates without clear indication that such payment is essential to the provision of services to the child/family or the court. Orders exceeding these rates may be appealed by the Department by the filing of a Motion with the Court.

Note: This policy is **not** related to the need for interpreters, language or sign, or other accommodations as may be required by the Americans with Disabilities Act.