

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: Court Appointed :
Attorney Fees for Criminal Cases : No. AD- 2024 - 287 -PJ
in the Fifth Judicial District of :
Pennsylvania :

ORDER OF COURT

AND NOW, this 27th day of September 2024, it is hereby ORDERED, ADJUDGED, and DECREED that the attached updated *Fifth Judicial District of Pennsylvania Criminal Case Court-Appointed Attorney Fee Policy*, dated October 1, 2024, shall replace the September 3, 2024, version of the Policy

This update only changes the language on page 6 of the Policy regarding the billing procedures for cases that resolve at the Preliminary Hearing and does not change any hourly billing rates, case maximums or effective dates as set forth in the Order of September 3, 2024, docketed at AD-2024-268-PJ.

BY THE COURT:



Susan Evashavik DiLucente
President Judge

SEPT. 27 2024
CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY PA

2024 SEP 27 AM 9:08

FILED

Fifth Judicial District of Pennsylvania Criminal Case Court-Appointed Attorney Fee Policy

Introduction

The judges of the Fifth Judicial District of Allegheny County Court of Common Pleas would like to thank you for choosing to represent indigent clients in Allegheny County. Our objective is to provide efficient and effective representation for those who cannot afford an attorney.

We expect all appointed attorneys to represent their clients zealously, to the fullest extent of the law. Appointed attorneys are expected to meet with their clients before court appearances, be present and prepared for all court appearances, file pre-trial or post-trial motions when appropriate, and preserve their clients' appellate rights.

To be eligible for court appointment, you must be a licensed attorney actively practicing in the Criminal Division of the Allegheny County Court of Common Pleas and be in good standing with the court.

Generally, representation begins at the preliminary hearing. If you are appointed at this stage, you are expected to maintain your representation until the case concludes and an appeal, if appropriate, is filed. Appointment might also occur after the preliminary hearing - at formal arraignment, pretrial, trial, appeal, or PCRA. In such cases, we request that you file your Formal Praecipe for Appearance either at the time of the formal arraignment or within a week of receiving an appointment. Please select "Court Appointed Attorney--Court Pay" on the Praecipe. Attorneys who consistently fail to file their appearance with the court may experience delayed payment or removal from the court appointment list.

Attorneys are urged not to accept any case if they cannot fully commit. Those who are persistently late, absent, or unprepared risk removal from the court appointment list at the discretion of the Administrative Judge of the Criminal Division. In the event a postponement is necessary, you must be aware of the next court date and prepared to proceed.

Please note that if you need to withdraw from a case, you must prepare and present a motion to the court. You cannot simply return the case for reassignment. This policy remains in effect even after sentencing. From the time of appointment through trial, sentencing, and the filing of post-sentence motions, it is your responsibility to ensure that a client's appellate rights are preserved.

Maximums & Hourly Rates

Determination of Maximum

- The Hourly Rate and Maximum Fee shall be determined using Table 1 based upon the highest charge listed on the Criminal Information.
- If representation starts at the Preliminary Hearing and the case is held or waived to Court, the court-appointed attorney must continue representing the client until the case concludes. In such cases, the Hourly Rate and Maximum Fee will be determined based on the highest charge listed on the Criminal Information.
- If an attorney is appointed to a case after the charges on the Criminal Information have already been reduced, and the prior attorney was not court-appointed, then the Hourly Rate and Maximum Fee will be determined by the highest charge on the Criminal Information at the time the new attorney was appointed.
- If an attorney is appointed at the Court of Common Pleas, to a case which was previously assigned to another court-appointed attorney, then the Hourly Rate and Maximum Fee will be determined by the highest charge on the Criminal Information at the time the information was filed, and the total compensation paid to both attorneys may not exceed the maximum for the case, absent an Order of Court allowing the payment of Fees in Excess of the Maximum. The newly appointed attorney must communicate with the prior court-appointed attorney to determine the amount of fees already billed to the case.
- The maximums are designed to substantially decrease the frequency and necessity for requesting fees in excess of the maximum. In an ordinary case, it is expected that an attorney will not bill up to the maximum.

Representation of Persons with Multiple Cases

- In cases where a court-appointed attorney represents a client on more than one Criminal Information that are joined, there shall be one maximum, which would be the highest maximum among all of the Criminal Informations. If the attorney believes that the maximum should be higher due to the multiple cases, the attorney should file a Petition Requesting a Fee in Excess of the Maximum with the Court, providing specific reasons why the maximum should be increased.

TABLE 1. RATES & CASE MAXIMUMS - TRIAL

Case Type	Hourly Rate (Preparation & Court) Time	Case Maximum (Includes Preparation & Court Time)
Capital Murder	\$110	\$20,000
Homicide	\$110	\$10,000
1 st Degree Felony/Violent Felony/SOC*	\$110	\$7,500
2 nd Degree Felony**/PWID	\$110	\$4,500
3 rd Degree Felony**	\$100	\$2,500
Misdemeanor	\$90	\$2,000
Phoenix Case	\$80	\$750
Preliminary Hearing (Case Held or Waived to Court)	Hourly Rate Applicable to Case based Upon Highest Charge Filed on Criminal Information	Case Maximum Applicable to Case based on Highest Charge Filed on Criminal Information
Preliminary Hearing (Case resolved at MDJ Level)	\$80	\$280 Per Court Appearance Up to Total of 3 Court Appearances or Total Max of \$840
Representation of a Witness/Miscellaneous	\$80	\$1,000

*Violent Felonies include only Felony Aggravated Assaults, Felony Sexual Offenses, Felony Robberies, Felony Kidnapping, Felony Strangulation, Arson endangering persons, Aggravated Arson, Burglary when a person is present, and Felony Inchoate crimes where the underlying offense is included in one of those categories. Also included is any case assigned to Sexual Offender Court whether charged as a felony or a misdemeanor and any 1st Degree Felony, whether or not it is a Violent Felony.

**An ungraded Felony shall be treated as the equivalent of an F1, F2, or F3 based upon the maximum sentence permitted for the ungraded felony.

TABLE 1. RATES & CASE MAXIMUMS – APPEALS AND PCRA

Case Type	Hourly Rate (Preparation & Court) Time	Case Maximum If Case was a Plea (Includes Preparation & Court Time)	Case Maximum If Case was a Trial (Includes Preparation & Court Time)
Appeal Conviction of Homicide or Violent Felony or SOC Case	\$110	\$4000	\$6000
Appeal All Other Convictions	\$90	\$1800	\$3600
First PCRA Homicide or Violent Felony or SOC Case	\$110	\$4000	\$6000
First PCRA All Other Convictions	\$90	\$1800	\$3300
Second or Subsequent PCRA Regardless of Charge Type	\$80	\$1000	\$1000

Payment for Representation of Clients at Preliminary Hearings

Payment for Preliminary Hearings - Cases That Are Held or Waived to Court

- If representation starts at the Preliminary Hearing, the court-appointed attorney must continue representing the client until the case concludes.
- An attorney may bill for the actual time spent preparing for and time in court at the preliminary hearing, and any such time billed will count toward the maximum for the case according to Table 1. The maximum in such cases will apply to the total amount billed by the attorney on the case, both at the Magisterial District Court and the Court of Common Pleas and shall, along with the Hourly Rate, be determined by the highest charge listed on the Criminal Information.

Payment for Preliminary Hearings - Cases That Are Resolved at the Magisterial District Court

- An attorney may bill for actual time spent preparing for and time in-court at the preliminary hearing, subject to the maximums listed in Table 1.
- The maximum fee is \$280 per court appearance, for up to three appearances, for a total maximum of \$840. For example, if there is only one court appearance in the case, the maximum is \$280. If there are two court appearances, the maximum is \$560. If there are three or more court appearances, the maximum is \$840.
- The maximum for the case may increase due to multiple court appearances up to a total maximum of \$840, but it does not increase for appearances necessitated by a defense postponement unless the defense request was made to allow the client to attend classes, perform community service, or otherwise take actions in furtherance of a final resolution of the case at the Magisterial District Court.
- In any case where the maximum is increased due to multiple court appearances, the court-appointed attorney must include on their invoice the reason for the postponement that increased the maximum and indicate whether it was requested by the Commonwealth, Defense, or the Court. If the postponement was requested by the Defense, the attorney must provide detailed reasoning for the request and explain how it meets the standard described in this paragraph.
- The Hourly Rate shall be \$80 per hour.

Billing Procedures

Paperwork to Register as a Vendor with the County

Before submitting your first bill on your first court appointed case, you must provide the following documents to the fiscal department at Court Administration:

- A W-9 form (Request for Taxpayer Identification Number and Certification)
- An Allegheny County Vendor Creation Form

You can obtain these forms by emailing CACBilling@allegheycourts.us. After completion, you must email these completed forms to CACBilling@allegheycourts.us or call 412-350-5269. You only have to register as a vendor one time. Once your documents are in order, you may submit your first bill. If you are already registered as vendor under the prior system (prior to effective date of this new Criminal Division Court Appointed Counsel Fee Policy) you do not need to reregister.

If you change your address, you must submit a new W-9 form.

Submitting an Invoice for Payment

To receive payment on a case, you must submit the following:

- A copy of the Order of Court appointing you to the case
- A copy of your filed Entry of Appearance (except for preliminary hearings)
- A detailed invoice on your letterhead, listing each date separately, the services performed, and the total time spent per service. Invoices must be on your letterhead, with no exceptions.
- A completed Court-Appointed Attorney Payment Order of Court with all information filled out. (In cases where some or all of the work was done at the rates under the old policy, that fact can be noted in section 14 of the Payment Order by listing the amount charged under the old policy separately in the bottom left corner of section 14 and including that amount in the total in Part C.)

Cases that Resolve at the Court of Common Pleas

Upon conclusion of the case, you must submit the documents above to the trial judge for approval and signature. The Court will then forward the bill to Court Administration for payment. Payments will be processed promptly. However, incomplete or missing documents will necessitate resubmission after correction. Invoices under this policy must be submitted within 30 days after completion of the case.

Cases that Resolve at the Preliminary Hearing

If the case resolves at the Preliminary Hearing, you should not submit the documents to a judge for approval, but rather must email them directly to CACBilling@allegheycourts.us for processing.

Periodic Billing

In cases where proceedings extend more than 12 months, or when multiple trials occur for a single case, an attorney may submit several bills throughout the duration of the case. The maximum payable amount will be determined by adding together the totals of all such bills. Once this maximum has been reached, no additional reimbursement will be granted unless the bill is accompanied by an Order of Court allowing the payment of Fees in Excess of the Maximum.

Billing

Hourly Rates

- Attorneys shall bill for actual time spent in preparation and in court at the rates specified in Table 1. Billing must be in a tenth of an hour (.1 hour) increment. The total amount billed shall not exceed the maximums outlined in Table 1, unless you have obtained an Order of Court authorizing the payment of Fees in Excess of the Maximum.
- Attorneys are not permitted to double-bill for preparation or in-court time. For example, if an attorney spends 4 hours in court on multiple cases, they may only bill for a total of 4 hours of court time. Those 4 hours should be allocated among the cases based on the time spent on each case. Similarly, if an attorney spends one hour of time in preparation by reviewing police reports that affect two court-appointed cases, that one hour must be divided between the two cases, rather than being billed as one hour on each case.
- Attorneys shall include with their invoice a detailed breakdown of the time billed, both in preparation and in court.
- Attorneys may not bill for court time spent obtaining a defense postponement that could have been obtained by the attorney prior to attending court.
- Attorneys representing an indigent client on any matter are prohibited from accepting money from their indigent client for any reason.

Petition for Payment of Fees in Excess of the Maximum

Court-appointed attorneys may petition for attorney's fees in excess of the established maximum under exceptional circumstances. It is expected that in typical cases, the prescribed maximum will be adequate compensation for services rendered. However, the court acknowledges that extraordinary situations may arise that necessitate additional fees.

Court-appointed attorneys who find it necessary to request fees above the maximum must file a detailed Petition for Payment of Fees in Excess of the Maximum with the court, clearly describing the extraordinary circumstances of the case. This petition should include a detailed explanation of the factors which make the case exceptional. The Petition must be filed as soon as the attorney is aware of the circumstances justifying the request.

Factors which may support such a request include:

- Cases with Complex Legal or Factual Issues - These cases must require an unusual expenditure of time, skill, and effort by the attorney, such as matters involving contested DNA or other complex scientific evidence, extensive investigation, multiple defendants/victims or "spree" cases, complex fraud cases, and representation of a client with serious mental health issues or accessibility challenges that require significant additional investment of attorney time.
- Extended Trial Duration - Cases where the number of trial days is expected to exceed five days may justify additional fees.
- Significant Discovery - If the amount of discovery necessitates a highly unusual amount of time to review, such as cases involving extensive review of video or bodycam footage, wiretaps, voluminous cellular phone extractions, multiple hours of surveillance footage, or extensive documentation in a financial case.

The court retains discretion in evaluating the factors and circumstances presented in the petition and deciding whether to approve a request for fees in excess of the maximum rate. Petitions for Payment of Fees in Excess of the Maximum should be considered the exception, not the rule, in the practice of court-appointed representation.

Petition for Expert Witness or Investigator

Court-appointed attorneys may petition for the use of experts or investigators when reasonably necessary for the representation of their clients. The attorney must demonstrate to the court's satisfaction that such expert or investigator services are reasonably necessary given the facts of the case.

If it is necessary to protect the rights of the client or to avoid revealing defense strategy, court-appointed attorneys may petition the Court for the use of an expert or investigator on an ex-parte and confidential basis. In such case, the Order allowing for the expert or investigator shall be public, the Petition setting forth the justification shall remain sealed absent Order of Court unsealing it.

The Maximum for an Expert Witness is \$3,000. The Maximum for an Investigator is \$1,000.