

Payment of Fees, Costs, and Expenses in Abuse and Neglect Cases

General Guidelines

Fees, costs, and expenses, except witness fees, in abuse and neglect cases are paid from the Court Appointed Attorneys Fees Fund (CAAFF). The majority of the CAAFF is used to pay court appointed attorneys in abuse and neglect and mental health cases leaving a limited amount available to cover any additional fees, costs, and expenses. The following addresses the most frequently asked questions regarding the payment of fees, costs, and expenses for court appointed attorneys. If you have a more specific question or can't find what you need here, please contact Beth Collard at 505-827-4969 or aocbac@nmcourts.gov.

Mileage Reimbursement

Mileage reimbursement is governed by the terms of your contract if you are a contract attorney. If your contract allows for reimbursement the amount of the reimbursement may not exceed .41 per mile.

Non-contract attorneys may be reimbursed for out of town mileage in excess of 40 miles per trip at the rate of .41 per mile.

All requests for mileage reimbursement must include an actual odometer reading (beginning and end) or documented map miles and must be approved by the judge.

Other Expenses

Routine office expenses are not reimbursable.

Requests for payment of discovery, deposition, or unusual expenses must be approved by the judge assigned to the case **before** the fees are incurred; and are only reimbursable if accompanied by an order from the district court judge assigned to the case.

Witness Fees

Children's Court Rule 10-143 governs subpoenas of witnesses in abuse and neglect cases. Rule 10-143(B)(2) provides that "if the witness is to be paid from funds appropriated by the legislature to the administrative office of the courts for payment of state witnesses or for the payment of witnesses in indigency cases, by processing for payment to such witness the fee and mileage prescribed by regulation of the administrative office of the courts."

The AOC's Witness Fee Payment Guidelines provide that "witnesses shall be allowed **no** fees for service" but **may** be reimbursed "per diem and mileage expenses pursuant to the current Per Diem and Mileage Act."

The Guidelines go on to provide that the AOC will "not pay in-town mileage for witnesses" and will only pay mileage when the witness is required to travel "over 15 miles one way from his town of residence." Finally, per diem is only paid when the witness is required to travel for at least two hours "beyond the normal work day."

Police officers and other law enforcement officers who are on duty at the time of trial shall not receive per diem or mileage.

To summarize:

- Did the witness have to travel out of their town of residence to testify?
 - Did the witness have to travel over 15 miles from their town of residence to testify?
- If the answer to either of these questions is no – the witness is not entitled to mileage.
- Did the witness travel for at least two hours beyond their normal work day to testify?
- If no, the witness is not entitled to per diem.

If the witness is entitled to mileage and per diem you must fill out the Witness Certification form. You should be able to obtain the form from the Court Clerk. If you cannot, please contact Beth Collard 505-827-4969 or aocbac@nmcourts.gov and she will get you the form. The form must be signed by the witness, the attorney, and the judge or judge's designee. The original of the form, a copy of the subpoena, any original receipts, and a copy of the client's indigency form/determination should be sent to the district court's finance office. The district court's finance office will send the package to the AOC where it is processed and payment returned to the district court who will then mail the payment to the witness.

Expert Witness Fees

Respondents Attorneys may seek expert witness and expert consultation fees upon a written order of payment by the district judge assigned to the case. The order must be supported by findings consistent with the requirements established in State ex rel. Children, Youth and Families Department v. Kathleen D.C. 2007-NMSC-018, 141 NM 535, 157 P3d 714.

The following Payment Guidelines govern payment and must be followed unless lower fees apply:

Expert	Consultation or Prep Cost	Court Cost
M.D.	\$105.00 per hour	\$135.00 per hour
Ph.D including psychologist	\$ 90.00 per hour	\$120.00 per hour
M.D. Specialist including Psychiatrist	\$120.00 per hour	\$150.00 per hour
Master's Level including LISW, LPCC	\$65.00 per hour	\$ 90.00 per hour

Total payment of expert witness and consultation fees shall not exceed \$1,500.00.

Requests for payment of expert witness fees must be approved by the judge assigned to the case **before** the fees are incurred. Invoices must be itemized to reflect the amount of time spent preparing and the amount of time spent in court and the expert must have an active vendor account listed in the State of New Mexico vendor file administered by DFA.