



Legal Aid
Agency

Civil and Family Legal Aid Billing

Avoiding rejections and best practice on Counsel CCMS submissions; FAS evidence for remote hearings in family cases; high cost evidence for billing and timing submissions to get paid first time.

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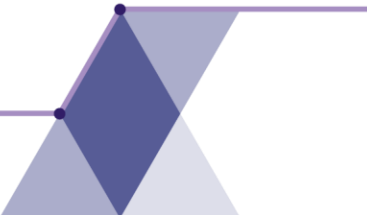
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Best Practice on Timings for non-FAS submissions



Timing of Submissions on Non-FAS case

- One of the main reject reasons for both Counsel and Solicitors revolves around the premature submission of a claim when we don't have all bills to consider at the same time.
- Whereas on Non Family Cases the Solicitor Bill is held pending Counsel Claims coming in; there is no such CCMS rule on FAS escape cases or High Cost Family submissions.
- The speed at which current bills are turned around has pushed the amount of time that Counsel has to submit their claims which can lead to issues for the Solicitor.
- We need all bills on a non FAS cases to be considered together as they are classed as assessable costs and therefore need to be assessed together.
- Our digital priority list now includes looking to mirror the rules on non-family on to non-FAS cases and we will push for this change in the next financial year.
- There are some tips in the next few slides around how we can manage the situation to avoid reject issues.

Timing of Submissions on Non-FAS case

- **Non-Family Cases:**
- **Counsel cannot submit a final claim for costs until the Solicitor Final has been lodged**
- **A notification is sent to each assigned Counsel on the case requesting they submit their bill. The Solicitor Final bill is held until a response from each Counsel is received**
- **The Counsel Submit Bill task once it has a response will come back into the work queue and a caseworker will then make a decision on whether we have all bills after 5 working days.**
- **I would suggest Counsel replies to the notification when they are ready to bill. There is a tendency to reply to the task stating you will be billing which might cause issues with the overall task.**
- **If you delay responding until you are ready to bill that takes away any risk of the Solicitor Bill being rejected.**
- **On Non-Family cases only; you can decide to claim your costs as part of the Solicitor Final bill which would avoid any issues around timings.**

Timing of Submissions on Non-FAS case

- **FAS Escape Cases Family:**
- **Unlike Non-Family; CCMS does allow Counsel to submit their final claim at any time.**
- **Unless we have the Solicitor Final and all other assigned Counsel any premature Counsel bill will be returned unpaid.**
- **The ideal scenario is that the Solicitor contacts all instructed Counsel and confirms a timeframe for when they are ready to bill.**
- **Instructing Solicitors should be the last person to submit their bill as they can see all current submissions on the case and therefore will be able to see which bills from Counsel are already submitted.**
- **There is no option to claim Counsel costs as part of the Solicitor Final bill**
- **From the date of receipt of the first Counsel bill; every other party will have 5 working days to get their claims in before premature claims are rejected.**

Timing of Submissions on Non-FAS case

- **Counsel High Cost Events Submissions:**
- Once a final contract is agreed in CCFS/FAST scheme, Counsel is entitled to bill their costs against the contract value.
- If no POA has been claimed then we can pay Counsel bill against the allocation and contract value.
- However if Counsel has already claimed a 100% Events POA (as allowed when the case is registered and the default limit is given (£32,500 or £60,000).) this restricts our ability to pay a Counsel Final.
- CCMS does not allow the Counsel POA to be recouped until we have paid the Solicitor Final on the case.
- If we therefore paid a Final Bill to Counsel this would leave a large overpayment in the account and lead to a large POA recoupment when we paid the Solicitor Final Bill
- Similar to FAS escape cases; the ideal scenario would be Counsel and Solicitors working together to bill their costs within a 5 day time frame.
- Given the potential delays experienced at the case plan stage; the high cost billing team does often work a 3 day turnaround on bills which may impact on submissions but is designed to favour speedier payment to all parties.

CCMS Claim Upload Tips and Avoid Pricing Rejections



CCMS Claim Upload Tips

- **Most Counsel Chambers in Family Cases use Claim Upload software to submit their FAS bills through CCMS rather than entering line by line via the Portal.**
- **Non-Family Bills should also be able to be submitted but that will depend on the software vendor used. CCMS does accept non-family submissions as we see on the Solicitor side of CCMS.**
- **Claim Upload can be used to price a claim before submission or to price and submit as one entry which will attempt to lodge the claim into CCMS. Pricing only is more of a checking option to see if the claim will be accepted first.**
- **An XML file will either be accepted or rejected at the submission stage**
- **Where it is not accepted; you will receive an exception report outlining the code and reasons.**
- **Please note a 'rejection' at the XML stage is not the same as a rejection of a claim in CCMS and should not be challenged via claimfix.**

CCMS Claim Upload Tips

- Two most Common exception codes for pricing errors on claim upload;
 - 1) Error Code 2001 – A valid bill line has not been supplied
 - 2) Error Code 4001 – Fee Scheme not valid for the claim type
-
- Claim upload error code generator look up tool is below from the LAA training website:
 - [Claim Upload Solving Issues Tool](#)
 - This tool allows you to enter the error code from the exception report and it will attempt to clarify what the reason is for the error.

CCMS Claim Upload Tips

Most Common Claim Upload Issues:

- **CCMS is in built with a set of rules for each known proceeding, client and date of issue combination**
- **If the bill created does not match what CCMS is expecting then the 2001 error code will appear. For example claiming FAS when it is hourly rates escape case.**
- **Common themes are around, multiple proceedings on the same certificate where the one billing against is not the lead. Children Act/Finance proceedings under PFLRS but Trusts of Land on the certificate which is the billed proceeding.**
- **Client being under 18 in family cases when certificate is issued so escapes fixed fee particularly in non-molestation cases.**
- **The incorrect date of issue being on CCMS at the application creation date. 0201 for year of issue on a FAS case wont generate FAS rates for example.**
- **Claiming for work after the high cost registration date but the flag to allow the Events fees is not present on our side of CCMS.**

Remote Hearings



Remote Hearings

- Remote hearings although present pre-Covid became the norm from March 2020.
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879645/LAA-FAS-updatev2.pdf
- The above guidance outlines what are the expectations of how remote hearings would work but also what can be claimed by Advocates attending a remote hearing.
- Evidence requirements were the big change and the relaxation of the need for Advocates Attendance Forms (AAFs) instead accepting Court Orders and other evidence where applicable.
- Where no Court Order is available or doesn't not include full information; then attendance notes can be used to back up the details of the times spent.
- Although no final decision has yet been made there are discussions around the permanent removal of the AAF and replacing it with the Detailed Court Order moving forward. Discussions are ongoing between the LAA, HMCTS and the legal aid rep bodies.

Final Hearings



Final Hearings FAS and General Guidance

- A final hearing is payable where it has been specifically listed as a Final Hearing to determine substantive issues; has been effective in hearing substantive issues and is within the scope of the funding certificate.

Finding of Fact Hearings:

- A finding of fact hearing is claimable at final hearing rates (subject to it being effective).
- This applies to both private law and public law proceedings.

Issues Resolution Hearing (IRH)

- In public law proceedings, if a case is concluded at an IRH and therefore does not proceed further, this hearing should be claimed at final hearing rates.
- If the Court makes a final order for one child but lists further hearings for other children, an interim fee would be applicable for the IRH because the case has not concluded.
- Any directions hearing or other form of interim hearing, including Dispute Resolution Appointment in Private Law Children proceedings or a Case Management Hearing that concludes proceedings is not a 'Final Hearing' for the purposes of FAS.

Advocates Meetings



Advocates Meetings

- Advocates meetings are claimable in Public Law proceedings only where they are ordered by the Court.
- There is no limit to the number of advocates meetings that can be claimed but where two or more have already been paid, the court order must be uploaded.
- In High Cost Events cases; the number of Advocates Meetings is limited to 2 per case and that will be split between all Counsel instructed. The reason for the difference in approach is due to the way Events Fees Scheme were determined and not down to the complexity of the cases.
- **It is good practice to upload the order listing the advocates meeting for every claim; this prevents the claim being rejected in the event that two advocates meetings have already been claimed.**
- The rate is determined by the level of Judge at the related hearing i.e. the hearing following the advocates meeting. The level of Judge should be evidenced within your claim.
- The only bolt-on claimable with an advocates meeting is the exceptional travel bolt-on.

Supporting Documents



Supporting Evidence General Tips

- Court orders should include the start and end times of any hearings and should also include details of any adjournment. Bolt-ons and Advocate Bundle fees should also be recorded in the court order.
- Where the court order does not include this detail further evidence should be provided to support these costs, such as counsel's attendance note.
- For a conference fee, the start and finish times must be provided.
- For an opinion fee, a copy of the advice should be uploaded.
- Evidence should also be provided in support of any travel expenses. For public transport over £20 a copy of the ticket or receipt should be uploaded with the bill.
- There has been an increase in the number of claims submitted where the wrong documents have been uploaded with Counsel's bill. The documents in these incidents have related to different hearings, counsel or cases. Checks should be made to ensure the documents uploaded are correct and relate to the fee being claimed

Other Clarifications



Clarifications on other issues for Counsel

Counsel instructed as an Expert:

The legal position is set out in the case of [R\(SP\) v Lord Chancellor \[2013\] EWHC 4011 \(Admin\)](#).

This summarises the two related reasons why counsel is not payable as an expert:

1. Evidence of the law of England and Wales is not admissible in the courts of England and Wales;
2. The Standard Civil Contract permits the costs of an expert to be claimed only in relation to non-legal work. The other types of third party who can claim are counsel (acting as such) and agents (whose time is claimed as that of the provider).

As regards the point as to the opinion being on immigration, not family, matters:

1. This is “advocacy services” for the purposes of regulation 2(1) of the Civil Legal Aid (Remuneration) Regulations 2013, since the services were “by counsel in connection with an opinion”.
2. It falls under regulation 8 of the Remuneration Regulations as it was advocacy services within family proceedings.

Hence, it falls under FAS unless any of the exceptions within regulation 8 apply. There is no requirement under the regulations that the opinion must be one in relation to family law.

Clarifications on other issues for Counsel

Working Contained within the Definition of a Hearing Unit under FAS:

FAS Hearing Units are inclusive of the all preparation, and cant be claimed unless arising from an actual hearing event.

If Counsel is being asked to undertake considerable solicitor desk work they may want to consider that this may not be claimable within the constraints of FAS.

Useful Links



Family Advocacy Scheme Guidance

- [7.100-7.158 2018 Standard Civil Contract](#)
- [Appendix 2, Costs Assessment Guidance 2018](#)
- [Chapter 6, Civil Finance Electronic Handbook](#)
- [Remote Family Hearings: Updated Ways of Working](#)
- [Civil Claims Rates Calculator](#)
- [Legal Aid Learning Website](#)

Our training website

CCMS Quick Guides



- [CCMS Advocate: Getting Started](#)
- [CCMS Advocate: Submitting Bills](#)
- [Calculate a FAS Fee \(Advocates\) - Interactive Module](#)
- [Bulk Claim Upload – Solving Problems](#)

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