

COMPTROLLER'S GUIDELINES

FOR PAYMENT OF EXPENSES FOR COMMITMENT, DISCHARGE AND TRANSFER OF PERSONS IN STATE INSTITUTIONS UNDER SECTIONS 22-52.1.1 through 22 -52-17, CODE OF ALABAMA.

SOURCES OF AUTHORITY FOR PAYMENT OF EXPENSES OF INVOLUNTARY COMMITMENT PROCEEDINGS

Judges of Probate – (Cites are to Code of Alabama, 1975, as amended)

- 22-52-12 All necessary expenses incurred in transporting a respondent for inpatient treatment are taxed as costs of the proceeding.
- 22-52-14 In any commitment proceeding, (1) the fees paid for representation of petitioner or respondent, as GAL and/or attorney, are to be paid at the rates set out in 15-12-21; (2) any expert employed to offer expert testimony shall be paid “such amounts as found to be reasonable by the probate judge; (3) all other costs allowable by law shall be paid by the state general fund upon order of the probate judge.”
- 22-52-17 When transporting a respondent for mental evaluation, the sheriff shall receive reimbursement for expenses in transporting the respondent to and from the facility at the rate allowed in 36-7-20. Further, the cost of conveying [respondent] shall be taxed as costs of the proceeding. **Please note** – 36-7-20 is entitled as “allowances for expenses other than transportation of persons traveling within state.” This statute covers per diem and meal allowances.

Comptroller – (Cites are to Code of Alabama, 1975, as amended)

- 41-4-50 Functions and duties include:
(4) To preaudit and **determine the correctness and legality** of every claim and account submitted for issuance of a warrant”
- 41-4-54 Accounts against state must be accurately and **fully itemized**.
- 41-4-61 Comptroller has authority to require information ... touching any claim or account he is required to audit.

GENERAL RULES ON EXPENSES SUBJECT TO PAYMENT FROM STATE TREASURY

Only expenses incurred *after* the filing of a petition are eligible for payment. Expenses incurred prior to a Petition cannot be paid.

Expenses must be reasonable and necessary - All charges against the Treasury of the State must be necessary to the action in which they were incurred and must be reasonable in amount.

As recognized in Attorney General’s Opinion 2012-055 : “There are no laws or statutes that determine or define a reasonable and necessary expense in any given situation.” That Opinion does provide the following guidance:

“According to Black’s Law Dictionary, the term “reasonable” is defined as “[f]air, proper, or moderate under the circumstances According to reason [[H]aving the faculty of reason (a reasonable person would have looked both ways)]” BLACK’S LAW DICTIONARY 1379 (9th ed. 2009). Webster’s Third New International Dictionary defines the term “necessary” as “items ... that cannot be done without: things that must be had: essentials.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1510 (3rd ed. 2002). Accordingly, a reasonable and necessary expense is an expense that is essential and fair

under the circumstances. This particular definition provides an enigmatic explanation. Consequently, this Office has occasionally stated that whether an expense is reasonable and necessary is a factual determination to be made by an agency.

PROCEDURES

Probate Judge Fee Declaration Form- The original form bearing **the Probate Judge's signature** must be submitted with the required supporting documentation attached **in the order** as listed on the form. .

Case Numbers- Case numbers/names are required to prevent duplicate payments.

Final Disposition and Date- Specify the type of final disposition (commitment, recommitment or dismissal) and must have the date of final disposition.

Appointment Date- The appointment date is the date the attorney is appointed by the Probate Judge (**Attorney's cannot be paid for work done prior to their appointment**).

Itemize Attorneys Fees- All attorney fees must be itemized and separated (in court/ out court) by date. Attorney Fee Declaration Forms (FRMS-MC1) can be found at www.comptroller.alabama.gov or www.alacourt.gov. Attorney Fees are paid pursuant to Code of Alabama, Section 15-12-21. Attorneys should follow the Uniform Guidelines established by the Alabama State Bar for itemizing their claims. These guidelines are available at www.comptroller.alabama.gov under the Indigent Defense section.

Evaluation/Expert Testimony –Invoices must list the respondent's name, the case number, the date of service and describe the services rendered by the expert. The invoice must be accompanied by a judge's order setting out the amount due the expert as well as a finding that the amount due is reasonable. The State will only pay for an evaluation after a petition is filed and for expert testimony during the hearing(s). A mental evaluation performed prior to a petition being filed is not payable by the State.

Itemize probate costs- All probate costs must be itemized in accordance with Code of Alabama, Sections 12-19-42 and 12-19-90. Flat rates are not acceptable.

Itemize transportation costs- Transportation costs must be itemized. Specify number of miles multiplied by the mileage rate. Code of Alabama, Sections 22-52-12 for court ordered inpatient treatment; Section 22-52-17 for transport costs for mental evaluation. Flat rates are not acceptable.

Mileage rate- is the current rate posted on the Comptroller's web-site per IRS guidelines. www.comptroller.alabama.gov

Copies- The State Comptroller's Office will accept copies of required invoices.

Appeals – Are paid pursuant to Code of Alabama, Section 22-52-15. If the Probate Judge is learned in the law, please indicate this on the Probate Judge Declaration Form when submitting it to the Comptroller's Office for payment.

Payment of Costs- All costs associated with mental commitment claims are reimbursed to the Probate Judge. No payments for the costs of a mental commitment will be paid directly to any vendor providing services through the Probate Court for these cases.

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If you have any questions, please contact:

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