

Notice to Counsel

Restructured Family Tariff Effective **October 1, 1994**

A restructured Family Tariff will be implemented on October 1, 1994. All referrals with assignment dates on or after October 1, 1994 are subject to the terms and conditions set out in the new tariff and applicable Notices to Counsel.

The Family Tariff, in the new, modular format, will be mailed to you during the first week of October. Insert the Family Tariff in your *Guide to Legal Aid Tariffs* binder, behind the Family Tariff tab. The Family Tariff will now include a separate section for the billing of cases which have been referred as Family and Child Service Act matters. Separate referral forms have also been developed for these cases.

Holdback

All referrals on the new tariff are subject to a 5% holdback until March 31, 1995. This will be deducted automatically at the time of billing and applies to fees only, not to disbursements. The holdback will be tracked and the repayment formula published.

The Family Case Management Program

The Family Tariff has been restructured to reflect practice under the Family Case Management Program, which will also be implemented on October 1, 1994. The Legal Services Society is committed to ensuring that, throughout the province, people with family problems can receive our assistance to review their options and get access to appropriate services. The Family Case Management Program covers cases in which the appropriate service is a referral to a lawyer. This program is designed to direct resources to those cases which will result in a tangible benefit to the client and/or his or her family.

The following is an overview of the Family Case Management Program:

1. Financially eligible clients will be interviewed about their cases so that intake workers can determine whether their problems fit within LSS's statutory mandate and coverage policy.

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2. If the case is covered by these guidelines, the intake worker will then determine if the case falls under the guidelines defining it as an emergency. If it is an emergency, the referring office will refer the case to a lawyer for emergency services. Emergency services are described in the "Emergency services" section of the Family Tariff.

The allowable services are set out in detail in the tariff section, and include:

- preparing for or responding to interim applications in court;
- attending in court;
- general preparation with the client and other witnesses, and negotiating with opposing counsel; and
- preparing separation agreements or consent orders.

3. If the case does not fall under the emergency guidelines, the intake worker will determine whether the problem is one that the client could reasonably pursue on his or her own, supported by legal advice and public legal education materials. The worker will also consider whether readily available alternative services could assist the client to resolve the problem. If so, the worker will refer the client to those alternative services, but will also instruct him or her to return to LSS if he or she cannot resolve the problem.

4. If there is no appropriate alternative service available, the intake worker will refer the client to a lawyer for non-emergency services. Non-emergency services are described in the "Non-emergency services" section of the Family Tariff.

The allowable services are set out in detail in the tariff section, and include:

- general preparation with the client;
- making necessary answers or statements of defence within filing limitation periods; and
- preparing separation agreements or court orders.

If a client is referred to you, and you determine after the initial interview that the client is actually at risk and requires emergency services, or if the client's situation changes and emergency services are required, you can contact the referring office to have the referral changed from a non-emergency to an emergency services referral.

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5. If you cannot resolve the case within the limits of the initial referral, all emergency and non-emergency referrals authorize you (unless the referral specifically states otherwise) to prepare and bill for an opinion letter about the further services necessary to resolve the case for the client. This opinion will be provided on a standard form published with the tariff. Clients will have agreed to let you share this information with Legal Services at the time of the referral. The opinion letter should be forwarded to the Family Case Management Program at the LSS tariff department.
6. Cases in which opinion letters are received will be reviewed by a lawyer on the basis of whether a reasonable person would continue to retain the services of a lawyer to pursue the case. Other factors that will be considered in deciding whether to authorize further services are:
 - Are the proceedings being unreasonably taken or prolonged?
 - Are avenues other than litigation available to resolve the outstanding issues?
 - What are the consequences to the client if the case is not pursued further?
7. When a decision is reached, you will be faxed an authorization. The authorization for approved services will detail the items you are entitled to bill under the "Approved services" section of the Family Tariff.

Approved services might include:

 - preparing for and attending examination for discovery;
 - general preparation with the client and witnesses;
 - preparing and conducting procedural applications;
 - attending pre-trials; and
 - supporting mediation or negotiated settlement.
8. The referring office will also receive a copy of the authorization and provide you with a billing form that contains detailed instructions. If, at any time, you feel services beyond those authorized are necessary to protect or advance your client's interests, contact the Family Case Management Program at the tariff department to request additional authorization.

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9. If no further services are approved and the client's coverage has ended, you and the client will be notified and the client will be advised of his or her right to appeal the decision to the Chief Executive Officer of LSS.
10. You are only permitted to bill items that are within the section of the tariff you have been authorized to work in. If you do not have specific authorization to perform a service, you will not be paid for it.
11. Cases involving actions taken under the Family and Child Service Act will be billed for under a separate section of the tariff and will not be included under the Family Case Management Program. A separate billing form has been developed for use with this section of the tariff. There are special billing rules in the tariff for cases which involve both family and child apprehension issues.

The goal of the Legal Services Society is to obtain the best possible representation for clients with the available resources. The intent of the Family Case Management Program is not to impede the solicitor-client relationship, but to provide a mechanism for us to review cases at natural assessment points to ensure our coverage and eligibility guidelines still cover the case, and the action being taken is that which a reasonable person would expect when paying for the service at his or her own expense.

LSS will be monitoring and evaluating the case management program, the corresponding changes to the tariff, and the new FCSA services section of the tariff.

Nancy Henderson
Director of Tariff

