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TO: Probate Court Judges

FROM: Daniel R. Schreiber, Deputy Director *DRS*
Office of Financial Management
Ohio Department of Mental Health and Addiction Services (OhioMHAS)

SUBJECT: **FY 2017 Process for Reimbursement of Probate Court Costs**

Section 5122.43 of the Ohio Revised Code authorizes that certain county probate court costs and expenses of proceedings held under Chapter 5122 may be reimbursed by the Ohio Department of Mental Health and Addiction Services (OhioMHAS).

Beginning with FY 2017, Probate Courts will be required to enter and submit an online Allocation Application within the OhioMHAS Grant and Funding Management System (GFMS). A User Guide with registration and submission instructions is attached. Additionally, a communication regarding the instructions will be forthcoming to the Deputy Clerk/Court Administrator of each court. Please continue to submit monthly requests for reimbursement in the same manner in which you have in the past.

Reimbursement for costs, fees, and expenses incurred by county probate courts is limited by the total annual appropriation level of OhioMHAS's court costs line item, 336506. The appropriation for this line item for FY2017 is \$1,284,210. The attached copy of Section 5122.43 (Attachment A) defines the costs and expenses of proceedings eligible for reimbursement by OhioMHAS. In accordance, probate courts will be reimbursed for allowable costs and expenses for those cases related to mental health commitments or involving mental health clients. The request for reimbursement must be submitted to OhioMHAS within two (2) months of the date such costs are incurred.

The Ohio Department of Mental Health and Addiction Services (OhioMHAS) provides each county probate court with an annual allocation based on a three-year weighted average of the billings submitted by the court (Attachment B). This average applies a 60%-30%-10% weight of the past 3 years of court expenses, with the 60% applied to the most recent year's activity. This yields a base percentage in determining how much of OhioMHAS's total annual appropriation each court receives for their allocation. The court's monthly expenses are deducted until their annual allocation is exhausted.

In Fiscal Year 2017, OhioMHAS has again calculated each court's current year's allocation based on this weighted average, but will reimburse expenses **on a base-rate-per-category method** up to the annual allocation for that court. In addition, OhioMHAS has reserved five percent (\$64,207.00) for those courts who are new to the process or with very minimal annual court expenses to be reimbursed in the current fiscal year rather than having to submit expenses over a period of three years to become eligible for an allocation.

Probate courts will continue to compile and submit their monthly requests for reimbursements using the forms created by OhioMHAS. Upon receipt of the submission, **OhioMHAS will review the documents for completeness and then use the Master Invoice Tally to calculate the allowable reimbursement based on the number of incidents in each category multiplied by the set base rate for that category.**

To determine the base rate for each reimbursement category, OhioMHAS compiled and evaluated four fiscal years of probate court expenses (2010-2013) and determined the combined average cost per category. The following chart outlines the expense/reimbursement categories and respective reimbursement base rates per incident that OhioMHAS has implemented:

<u>EXPENSE/REIMBURSEMENT CATEGORIES</u>	<u>FY2017 REIMBURSEMENT RATE PER INCIDENT</u>
Police	\$54
Sheriff	\$27
Physician	\$153
Witness	\$100
Transportation	\$51
Conveyance Assistant	\$6
Attorney	\$119
Referee (Magistrate)	\$116
Court Reporter	\$33
Other Court Costs	\$19

If a court's rate for a category is higher than OhioMHAS's reimbursement rate for that category, the court will be reimbursed at OhioMHAS's base rate for that incident (see Example 1). If a court's rate for a category is equal to or lesser than the OhioMHAS's reimbursable rate, the probate court will be reimbursed at the lower rate (see Example 2).

Example 1: 6 incidents for Attorney totaling \$1,200.00 divides to \$200.00 per incident. OhioMHAS's base rate for Attorney is \$119. The court will be reimbursed \$714.00. (6 incidents @ \$119.00 each).

Example 2: 6 incidents for Sheriff totaling \$123.50 divides to \$20.58 per incident. OhioMHAS's base rate for Sheriff is \$27.00. The court will be reimbursed their \$123.50—it is the lesser amount per incident.

OhioMHAS will reimburse each court's request for the allowable costs based on the submitted number of incidents per category of expenses until that court's total annual allocation is exhausted or the OhioMHAS's total annual appropriation is depleted. Although OhioMHAS will not be able to continue making payments to the courts once the allocation is depleted, it is advised that requests for reimbursement continue to be submitted. The purpose of this is to allow ongoing development of a database for actual costs incurred which will assist in establishing future year base rates and biennium budget requests.

REIMBURSEMENT PROCEDURES AND FORMS

The reimbursement request forms have been designed to capture the court costs by the respondent's county of residence. If jurisdiction is transferred from one probate court to another, the court that incurs the expenses has two options for obtaining reimbursement: (1) the court holding the proceedings can bill OhioMHAS directly for these costs, or (2) the court holding the proceedings can bill the court of the respondent's county of residence and that court may, in turn, bill OhioMHAS for reimbursement. The decision as to how to settle these costs is made at the local level.

Forms and instructions for FY2017 reimbursement requests are now located at the Ohio Department of Mental Health and Addiction Services (OhioMHAS) web site <http://mha.ohio.gov>. Under the >Funding Tab; select >Reporting Forms. Instructions and forms are provided in PDF format. **Prior year forms will not be accepted and old reimbursement rates will be adjusted and billings paid at FY2017 rates.**

If you have any questions or require additional information, please contact Audra Terrell at (614) 466-9980, fax - (614) 644-9116, or e-mail - audra.terrell@mha.ohio.gov

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5122.43 Payment of costs, fees, and expenses of proceedings - reimbursement.

(A) Costs, fees, and expenses of all proceedings held under this chapter shall be paid as follows:

- (1) To police and health officers, other than sheriffs or their deputies, the same fees allowed to constables, to be paid upon the approval of the probate judge;
- (2) To sheriffs or their deputies, the same fees allowed for similar services in the court of common pleas;
- (3) To physicians or licensed clinical psychologists acting as expert witnesses and to other expert witnesses designated by the court, an amount determined by the court;
- (4) To other witnesses, the same fees and mileage as for attendance at the court of common pleas, to be paid upon the approval of the probate judge;
- (5) To a person, other than the sheriff or the sheriff's deputies, for taking a mentally ill person to a hospital or removing a mentally ill person from a hospital, the actual necessary expenses incurred, specifically itemized, and approved by the probate judge;
- (6) To assistants who convey mentally ill persons to the hospital when authorized by the probate judge, a fee set by the probate court, provided the assistants are not drawing a salary from the state or any political subdivision of the state, and their actual necessary expenses incurred, provided that the expenses are specifically itemized and approved by the probate judge;
- (7) To an attorney appointed by the probate division for an indigent who allegedly is a mentally ill person pursuant to any section of this chapter or a person suffering from alcohol and other drug abuse and who may be ordered under sections 5119.91 to 5119.98 of the Revised Code to undergo treatment, the fees that are determined by the probate division. When those indigent persons are before the court, all filing and recording fees shall be waived.
- (8) To a referee who is appointed to conduct proceedings under this chapter that involve a respondent whose domicile is or, before the respondent's hospitalization, was not the county in which the proceedings are held, compensation as fixed by the probate division, but not more than the compensation paid for similar proceedings for respondents whose domicile is in the county in which the proceedings are held;
- (9) To a court reporter appointed to make a transcript of proceedings under this chapter, the compensation and fees allowed in other cases under section 2101.08 of the Revised Code.

(B) A county shall pay for the costs, fees, and expenses described in division (A) of this section with money appropriated pursuant to section 2101.11 of the Revised Code. A county may seek reimbursement from the department of mental health and addiction services by submitting a request and certification by the county auditor of the costs, fees, and expenses to the department within two months of the date the costs, fees, and expenses are incurred by the county.

Each fiscal year, based on past allocations, historical utilization, and other factors the department considers appropriate, the department shall allocate for each county an amount for reimbursements

under this section. The total of all the allocations shall equal the amount appropriated for the fiscal year to the department specifically for the purposes of this section.

On receipt, the department shall review each request for reimbursement and prepare a voucher for the amount of the costs, fees, and expenses incurred by the county, provided that the total amount of money paid to all counties in each fiscal year shall not exceed the total amount of moneys specifically appropriated to the department for these purposes.

The department's total reimbursement to each county shall be the lesser of the full amount requested or the amount allocated for the county under this division. In addition, the department shall distribute any surplus remaining from the money appropriated for the fiscal year to the department for the purposes of this section as follows to counties whose full requests exceed their allocations:

- (1) If the surplus is sufficient to reimburse such counties the full amount of their requests, each such county shall receive the full amount of its request;
- (2) If the surplus is insufficient, each such county shall receive a percentage of the surplus determined by dividing the difference between the county's full request and its allocation by the difference between the total of the full requests of all such counties and the total of the amounts allocated for all such counties.

The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement the payment of costs, fees, and expenses under this section.

Amended by 130th General Assembly File No. TBD, SB 43, §1, eff. 9/17/2014.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 09-29-1997