

Wayne County Indigent Defense Services Dept.

Wayne County Managed Assigned Counsel Fee Schedule and Hourly Billing Policy

(Note: This policy is subject to modification at any time)

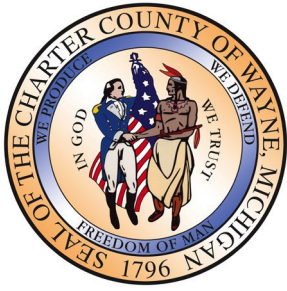
I. Introduction

The Wayne County Indigent Defense Services Department (IDSD) uses an hourly payment system, in compliance with MIDC Standard 8, to compensate attorneys on all trial level felony appointments. The IDSD second chair program and additional trial level managed assigned counsel services will be paid in accordance with the rates then in effect during the fiscal grant year, and as approved by the Michigan Indigent Defense Commission (MIDC).

Service on the Wayne County Managed Assigned Counsel roster is a privilege, not a right. Managed assigned counsel are vendors of Wayne County and are not subject to any employment contracts, benefits, or payment schedules that may exist for employees of the County. Assigned counsel should be mindful of this distinction for legal and tax purposes, and to ensure compliance and avoidance of misclassification.

II. Standard 8 Review Requirements

Pursuant to Standard 8 managed assigned counsel invoices are reviewed by the Assistant Assigned Counsel administrator (or designee), who may approve or deny fees/expenses. Centralized, administrative review promotes independence of counsel, consistency of fees, and removes this burden from judges. Invoices will be approved promptly unless there is specific cause to question the service detail. Upon review, the invoice may be returned to managed assigned counsel for correction or explanation. Sections III and IV below provides more detail surrounding the review process and requirements for managed assigned counsel.



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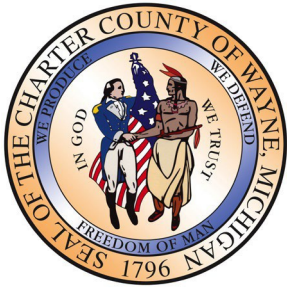
III. Standard 7 Monitoring

The Indigent Defense Services Department, as part of its administrative function, will continue to monitor and review assigned counsel eligibility and performance, and recommend sanctions, suspensions, or removal of assigned counsel from the Wayne County Managed Assigned Counsel Roster pursuant to MIDC Standard 7. Standard 7 requires that the quality of the representation provided by indigent defense providers be monitored and regularly assessed. The MIDC Act also requires that defense counsel be “systematically reviewed at the local level for efficiency and for effective representation according to MIDC Standards.” MCL 780.991(2)(f).

Monitoring the billing practices of managed assigned counsel is essential to promote best practices and prevent misuse or waste of grant funding. Managed assigned counsel may face removal from the roster for noncompliance with IDSD policies and engaging in irregular or inefficient billing practices.

Examples of irregular or inefficient billing practices include but are not limited to:

- **Overbilling:** Charging for more time than was spent on the case or task, or billing for services or tasks that were not performed.
- **Double Billing of time:** Failing to apportion actual time across multiple cases.
- **Inflated Expenses:** Overstating costs, such as travel or other reimbursable expenses.
- **Unnecessary Work:** Performing or billing for tasks that could be more efficiently or effectively handled by specialized resources, i.e. IT expert for electronic discovery management.
- **Lack of Transparency:** Failing to provide detailed or clear invoices that should reflect compliance with MIDC Standards and IDSD policy.
- **Delayed Invoicing:** Postponing or failing to input service data timely makes it harder to recall details and may lead to inaccuracies or errors.
- **Inconsistent Time Tracking:** Failing to log time promptly results in incomplete or vague billing entries.
- **Failure to Adapt to Preferred Billing Practice and MIDC Standard compliance:**



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- Ignoring IDSD preferred billing practices and failing to adhere to established IDSD billing policies.
- Failure to comply with MIDC Standards, specifically Standard 2, Initial Client Visit. For example, assigned counsel should not bill for voluminous discovery review, without having also conducted a substantive initial client interview.
- Evidence of low efficiency in practice, i.e. billing for “court- wait time” without maximizing productivity during the downtime, such as reviewing additional case matters or preparing for other tasks.
- **Rework Due to Errors:** Frequent billing mistakes that require corrections, wastes time and creates inefficiencies.

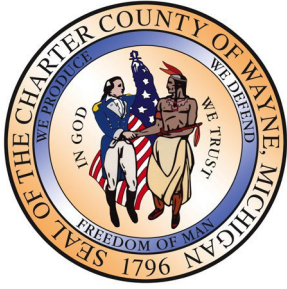
Additionally, harassing, threatening, barraging, or disrespectful interactions with IDSD staff, and persistent disregard for corrections or directives issued by IDSD may also result in removal. If billing fraud is detected, IDSD is required to report the fraudulent activity to the appropriate entity for further investigation.

IV. Progressive Billing Requirement

Managed assigned counsel is required to bill progressively on cases and submit a request for payment within 30 calendar days of rendering professional services or incurring acceptable expenses. Progressive billing is defined as billing incrementally as specific work is completed on the case, rather than waiting until the representation is terminated. Further, all requests for payment must be submitted within the fiscal year of service provision. IDSD understands that exigent circumstances can arise, however, **there is no guarantee of payment on untimely or late vouchers**, pursuant to the County fiscal year end accounting protocols and procedures.

Managed assigned counsel must submit a copy of the register of actions with their request for payment **when:**

- services are invoiced prior to bindover, or
- the matter is resolved in the respective district court, or
- the matter is suppressed (e.g. HYTA, 771.1, 769.4a, diversion), or
- the client has been accepted to any Wayne County specialty courts (e.g. Veterans, MH, Jobs)



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In cases where a bench warrant is issued, managed assigned counsel, if eligible, should expect to be re-appointed to the case if the defendant is arrested on the warrant within six months of its issuance. If there is a longer period of time between warrant issuance and arrest, assigned counsel will be contacted to determine if they are able to accept the re-appointment.

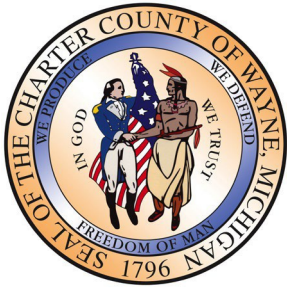
Managed assigned counsel is expected to provide legal representation to each client entrusted to them. The assigned counsel is expected to attend all hearings, as well as manage their own calendar. Therefore, services of “stand-in” or “substitute” counsel will not be compensated. While vertical representation is preferred, in extenuating circumstances, house counsel may be utilized for non-substantive matters, i.e. date changes or adjournments.

V. Extenuating Circumstances and Exceptions to Billing Deadline Dates

Midyear and ahead of fiscal year-end, the Department will notify assigned counsel via email of deadlines to bring all billing current. This requirement prevents a year-end influx of invoices and ensures payments and invoices are posted to the correct fiscal year. Compliance is mandatory, as County fiscal year end accounting protocols and procedures control when the period officially closes.

The Department may approve **limited exceptions** to published billing deadlines where a qualifying extenuating circumstance prevented timely submission. **Qualifying circumstances include:**

- (a) documented IDSD/County or court system outages or software failures;
- (b) declared emergencies or widespread utility/network failures;
- (c) serious personal hardship such as medical incapacity, bereavement of an immediate family member, birth/adoption leave, or military activation;
- (d) documented cyber incidents causing data loss; and
- (e) court-driven constraints that made necessary billing information unavailable until after the cutoff.



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Attorneys must submit an “Exception Request” in writing via email, within 10 business days of the cutoff or the qualifying event, whichever is later, including dates, a brief impact statement, and third-party documentation where necessary or upon request by the Department. The email should be sent to IDSDWayne@waynecountymi.gov.

Approved exceptions permit late submission for up to **10 days** past the published billing deadline date. Discretionary exceptions are limited to one per fiscal year per attorney. The Department may impose materiality caps and consider prior compliance history. Assigned counsel’s ordinary workload, planned vacations, assigned counsel’s own internal or firm’s staffing changes, forgetting the date, or private vendor disputes within the assigned counsel’s control **do not qualify**.

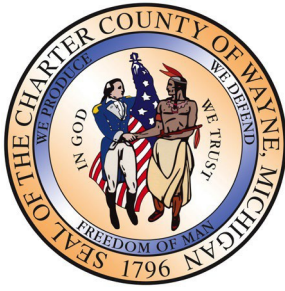
Decisions are issued in writing and logged for audit. The Department may require completion of an attorney billing refresher following approval.

VI. Invoice Review

Every felony appointment, including probation violation cases, house counsel service and interlocutory appeals, will require the attorney to itemize the time they spent on the case to be paid. All cases must be billed in the IDSD Attorney billing software, or designated voucher form, and will be paid at the approved rates then in effect as outlined in the chart below.

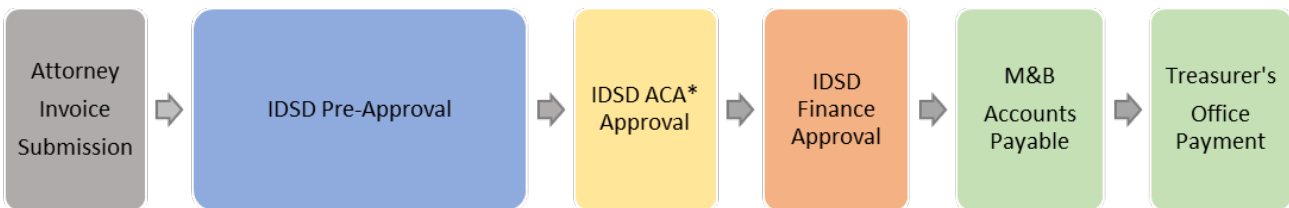
Attorneys are required to keep an itemization of all work done on any appointed case and submit the itemization on an invoice in the IDSD Attorney billing software, or designated voucher form as required or directed. All invoices will be reviewed for reasonableness and itemized **hours must be reasonably necessary for the itemized event**. In the Attorney billing software, the itemized event must also include a correct service entry type that corresponds with the work performed. ANY error on an invoice may be rejected.

Although presumptive maximums exist for all Tiers, each invoice or voucher will undergo a review process to ensure adherence to best practices, efficient service provision, and accuracy in billing.



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The review and payment process in the Attorney billing software for managed assigned counsel invoices involves 5 steps from attorney submission to payment. The chart below details the process for IDSD review for an invoice that is **properly submitted**:



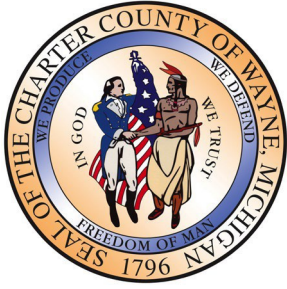
*ACA – Assigned Counsel Administrator

If a service item requires corrections or is rejected, this will delay the review process, as the managed assigned counsel must correct the item and resubmit it on a new invoice. Once an invoice is approved by IDSD Finance, it is processed and sent to the Wayne County Management & Budget Department for review. Payments are subsequently issued by the Wayne County Treasurer's Office.

VII. Service Detail and Itemization

Wayne County's hourly attorney rates as approved by MIDC meet the minimum requirements outlined Standard 8. The Standard contemplates office overhead, local travel, and annual cost of living increases.

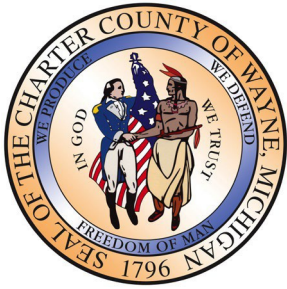
Accordingly, tasks common and related to operating a law practice are not billable. Generally, tasks which can be or are actually performed by office support staff (e.g. making nominal copies, mailing, downloading discovery, scheduling and maintenance of the attorney calendar, etc.) are not billable. Brief communications from courts regarding hearing time adjustments are expected in practice, promote time efficiency, and are not billable. Assigned counsel should make every effort to bill for substantive activities that directly serve the client and familiarize themselves with the Billing Detail item types located on the Department's website.



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Assigned counsel should use the following guidelines:

- Assigned counsel must use the attorney billing software application to enter time for services rendered, unless directed to an applicable service voucher. The application is accessible by computer, tablet and cell phone. Counsel is **strongly encouraged** to enter itemization of services provided in real-time to ensure accuracy.
- Enter the actual time of services. The software will automatically calculate the amount of time in hours once you input the actual time services were rendered.
- Counsel **may not** include travel time **absent extraordinary circumstances, and must give prior notification to IDSD before traveling.** Extraordinary circumstances would include having to conduct an in-person prison visit with a client outside of the southeast Michigan Tri-County area. Assigned counsel must use the attorney service voucher for travel expenses and will be paid at the then approved travel rate.
- Counsel **may not** include parking fees, overhead costs of office space or the equivalent, administrative or support staff time, IDSD consultation, or training.
- When invoicing multiple cases for the same defendant, please do your best to apportion the appropriate time to each case. If the cases have mostly similar court dates, jail visits, etc., it is expected that the primary case may contain the largest portion of the itemization with the related case(s) containing fewer hours.
- When entering time spent in court, please keep in mind that you cannot enter more time than is actually spent. For example, if you are in court for one hour on two separate cases, you must apportion that hour between the two cases. You cannot enter one full hour for each case, because you did not actually spend two hours in court.
- All jail visits should be itemized with actual time spent, including any waiting time. There is no longer a flat fee for jail visits.



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- To collect data to improve the efficient use of assigned counsel time and grant funding, the billing item “Court - Waiting Time” is to be used for **idle time** of more than thirty (30) minutes spent waiting for court proceedings to commence. Assigned counsel is encouraged to minimize use of this item by arriving on time and being prepared for anticipated waiting by having other legal work available, e.g. review discovery or other cases materials, document or pleading drafting, research, etc. Please refer to Section 2, Standard 7 Monitoring for examples of inefficient and irregular billing practices.

VIII. Case-Related Expenses

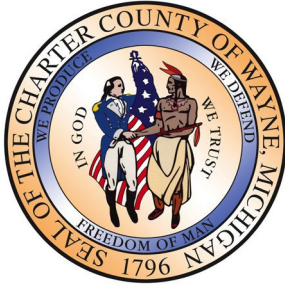
Hourly rates are designed to consider the typical overhead costs of running a law practice. Attorneys will be reimbursed for reasonable case-related expenses, such as FOIA requests for information that cannot be obtained through discovery, or reasonable clothing purchases for clients needing trial clothes.

Copying/Printing for the attorney’s use, and de minimis copying for the client (less than 250 pages) should be considered part of the attorney’s overhead and not separately reimbursable. (**NOTE**: IDSD should be consulted before printing in excess of 250 pages for the client.)

Case related expenses that the attorney believes will exceed \$100 **must** be pre-authorized by the IDSD Assigned Counsel Administrator. Approved case-related expenses must be submitted to IDSD on the attorney service voucher. Counsel must provide receipts.

IX. Standard 6

Standard 6 and the Act require that “[d]efense counsel’s workload is controlled to permit effective representation.” MCL 780.991(2)(b). Wayne County has set its caseload maximum for Managed Assigned Counsel (“MAC”) at Fifteen Hundred (1500) attorney hours per year. The maximum also includes hours spent on cases outside of Wayne County appointments (i.e. retained clients, federal, county, city and municipal appointments).



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Hourly Rates and Case Maximums

The following hourly rates and case type maximums are applicable to cases where the appointment was made on or after October 1, 2025:

Case Type	Hourly
Interlocutory Appeals (Tiers 3 and 4)	\$151
Interlocutory Appeals (Tiers 1 and 2)	\$202
Probation Violations (regardless of underlying category)	\$155
Felonies (Tiers 3 and 4)	\$155
Felonies (Tiers 1 and 2)	\$210
Any case where a Habitual 4 th with a <u>life max</u> is <u>actually filed</u>	\$210
Second Chair Attorney* (same as applicable Tier)	----
Lead Counsel Mentoring to second chair* (same as applicable Tier)	----

Case Type Maximums	Presumptive
Tier 1	92.5 hours
Tier 2	40.3 hours
Tier 3	50 hours
Tier 4	30 hours