

DATE: February 8, 2023

FROM: Jill Burchardt, Manager Family Court Services/Tara Berry, Clerk of Courts

RE: Establishing a new fee schedule for mediation and custody study fees

**General Description:**

Family Court Services is requesting to establish a new fee schedule for mediation and custody study fees and to increase the fees specifically for custody studies.

**Action Requested:**

Motion to approve a resolution to establish a new fee schedule for mediation and custody study fees, specifically to set mediation fees at the existing amount of \$150/parent, to increase custody study fees to \$50/hour and to increase the up-front retainer fee payment to \$525/parent.

**Procedural Steps:**

Committee of Jurisdiction: JPS  
Action taken: Motion Approved  
Other Committee: P&F  
Action taken: Motion Approved  
County Board

Meeting date: January, 9 2023  
Vote: Unanimous  
Meeting date: February 8, 2023  
Vote: 4 yes, 1 no  
Meeting date: February 28, 2023

**Background:**

The last time that a fee schedule for mediation or custody study fees was addressed was in approximately 2001. No information is available from prior FCS Directors/Managers to review regarding the prior fee schedule, nor can the fee schedule that was established be located.

Pursuant to Wis. Stat. 814.615, the county shall collect no fee for the first mediation session, a single fee of \$200 for mediation provided after the first session, regardless of the number of sessions held, and \$300 for a custody study. In lieu of these fees, a county may establish a fee schedule to recover its reasonable costs of providing services.

FCS is not requesting any change to the mediation fee, which is currently set at \$150/parent when the parents go beyond one session. The first mediation session is free of charge.

Custody evaluation fees currently require a parent to pay a \$400 retainer fee at the outset of the evaluation process. Work conducted during the study process is billed to a parent at the rate of \$40/hour. At the conclusion of the study process, the parents then owe for any amount that is above the \$400 initial retainer fee paid. If the custody study team provides less than 10 hours of work, a refund is issued to the parent of the unused portion of the retainer fee. Parents are also billed for the cost of obtaining any records.

At present, the departmental cost of conducting a custody study is not covered by the current fee structure.

Given that the prior fee schedule is unable to be located, and the FCS office is clearly working under the terms of an alternate fee schedule, a review of current costs and establishment of a new fee schedule

that can located and referenced would be beneficial. The judges unanimously approved the proposed increase in custody study fees in December 2022.

### Policy Discussion:

The number of custody studies that are conducted by FCS is variable from one year to the next and this number is wholly dependent upon the number of court referrals that are made. A survey of the past five years shows, on average, that 16 studies are completed and submitted yearly.

FCS has five sources of revenue: a percentage of marriage license fees, a percentage of family court filing fees, a contract to provide mediation services to Waushara County, mediation and custody study fees. Study fees are projected to bring in \$15,000 yearly, which represents 15% of the total revenues projected.

In a regular year, wherein the court referrals are near the average of 16 studies in a calendar year, revenues collected will exceed projections and the actual revenue collected can provide an additional \$10,000. Despite this, the salary and expenses of conducting a study are not covered by the current fee structure.

Custody studies are conducted by a team of two mediators. Both mediators are present for all in-person appointments, including home visits. The primary mediator is responsible for maintaining the file, record reviews and writing the report. The administrative associate assists and provides work on each file. Mediators routinely collaborate prior to and after appointments, when records are being reviewed and during the writing of the report. It is difficult to pinpoint exactly how much time is spent on these activities, as they vary greatly depending upon the case.

Conducting a survey of billing statements for studies completed in the past five years, 17 hours on average is spent on in-person interviews (two mediators) and 25 hours on records review/drafting the report (one mediator). Hourly billing practices are unlike those of Guardian ad Litem, who bill for every minute spent on a file. In order to keep costs low, the Office of Family Court Services routinely does not bill for things like reading parent submissions or emails, contacts in between formal appointments, interview prep work, and preparing releases. A conservative estimate of unbilled time per study is 10 hours.

Average mediator salary is \$34/hour. Average administrative associate II pay rate is \$20.50. Calculations arrived at by averaging out minimum and maximum salary for the positions.

- Present fee structure at current \$40/hour rate results in collection of a total fee of \$1680
- If billing based on a two-tier approach (one mediator vs. two mediator), this results in collection of a total fee of \$2006 (\$68x17 and \$34x25)
- Proposed billing at a set rate for all work—similar to what occurs now—at a rate of \$50 results in collection of a total fee of \$2,100

FCS proposes a simple, across the board fee of \$50/hour. This results in a minimal increase from what a two-tier billing approach would be (\$94), however, this slight overage would offset the administrative associate's salary, costs associated with printing documents, which can be voluminous, and offset some costs incurred when the mediation team collaborates outside of interviews or provides other, typically

unbilled, work on the file. This simple billing system remains easy to track, manage and follow, for both mediators and clients.

Comparisons with other counties regarding their services provided for custody evaluations vary greatly, so it is almost impossible to provide an "apples to apples" comparison. A table is attached to provide some comparative data.

Custody study fees are split equally between the parents, resulting in a bill to each parent of \$1050. The retainer fee increase to \$525 represents one-half of this amount. Parents may apply for a waiver of custody study fees, and are provided the application at the outset of the process. Even if parents choose not to apply or are denied a waiver if their income is too high, parents are not denied services for failure to pay the fees when they are instructed to pay, which is within 30-days of receiving an invoice. The custody study commences immediately after being ordered, even if they do not pay the retainer fee. The court hearings to determine placement/custody is also not delayed if a parent does not pay the amount due. The parents and their attorneys are provided access to the report and recommendations by the Clerk of Court's Office so they can adequately prepare for the hearing itself.

**Attachments:**

- Wisconsin Statute 814.615 regarding fees
- Winnebago County 2022 Compensation Schedules for Mediator and Administrative Associate II
- Proposed Draft Fee Schedule
- Tables regarding past 5 years of custody studies completed
- Fee Comparison Tables

**814.615 Fees for mediation and studies.**

(1)

(a) Except as provided under sub. (2), for family court services provided under s. 767.405 a county shall collect the following fees:

1. For the first mediation session conducted upon referral under s. 767.405 (5), no fee.
2. For all mediation provided after the first session mediation described under subd. 1., a single fee of \$200, regardless of the number of mediation sessions held.
3. For a study under s. 767.405 (14), a fee of \$300.

(b) The county shall determine when and how to collect the fees under par. (a). Subject to sub. (3), the county shall reduce the fees in accordance with the parties' ability to pay or provide the services without payment of the fees if both parties are unable to pay.

(2) In lieu of the fee under sub. (1)(a) 2. or 3., a county may establish a fee schedule to recover its reasonable costs of providing family court services under s. 767.405. A fee schedule established under this subsection may apply in lieu of the fee under sub. (1)(a) 2. or 3. or both, and shall require no fee for the first mediation session conducted upon referral under s. 767.405 (5); provide for payment for any other services based on the parties' ability to pay; and take into account the fees the county collects under s. 814.61 (1)(b) and (7)(b). Fees shall be based on services actually provided. The county may not collect a single fee applicable without regard to the number of sessions or services provided. Subject to sub. (3), the county shall provide family court services to the parties even if both parties are unable to pay.

(3) The court or a circuit court commissioner shall direct either or both parties to pay any applicable fee under this section. If either or both parties are unable to pay, the court shall grant a separate judgment for the amount of the fees in favor of the county and against the party or parties responsible for the fees.

(4) The county treasurer shall deposit fees collected under this section in a separate account for the exclusive purpose of providing mediation services and studies under s. 767.405.

History: 1987 a. 355; 1991 a. 269; 2001 a. 61; 2005 a. 443 ss. 264, 265.

NOTE: 1987 Wis. Act 355 contains explanatory notes.

Grade	Current Title	Dept	Minimum	Top of Range A	Control Point Top of Range B	Top of Range C	Top of Range D
24	Grade 24 - Hourly		\$28.63	\$30.07	\$31.57	\$35.31	\$39.50
24	Grade 24 - Salaried		\$59,557	\$62,535	\$65,660	\$73,462	\$82,189
24	Maintenance & Operations Manager	Airport					
24	Office Supervisor	Child Support					
24	Family Court Services Mediator	Circuit Courts					
24	Chief Deputy Clerk of Courts	Clerk of Courts					
24	Chief Deputy Coroner	Coroner					
24	Division Program Coordinator	District Attorney					
24	Office Supervisor	District Attorney					
24	HVAC Specialist	Facilities					
24	Master Electrician	Facilities					
24	Plumber	Facilities					
24	Purchasing Manager	Finance					
24	Office Supervisor	Highway					
24	Highway Maintenance Supervisor	Highway					
24	Traffic Operations Supervisor	Highway					
24	Human Resource Advisor	Human Resources					
24	Risk Manager	Human Resources					
24	Office Supervisor	Human Services - AD					
24	Special Projects Coordinator	Human Services - AD					
24	Case Manager - Lead	Human Services - BH					
24	Psychiatric Nurse	Human Services - BH					
24	Qualified Therapist - In Training	Human Services - BH					
24	Youth CCS Lead Specialist	Human Services - BH					
24	Systems Analyst	Information Systems					
24	Food and Nutrition Services Manager	Park View Health Center					

Grade	Current Title	Dept	Minimum	Top of Range A	Control Point Top of Range B	Top of Range C	Top of Range D
<b>Grade 14</b>							
14	Tax Listing Specialist	Planning and Zoning	\$16.38	\$17.21	\$18.06	\$20.10	\$22.60
14	Records Associate	Register of Deeds					
<b>Grade 15</b>							
15	Administrative Associate II	Circuit Courts	\$17.29	\$18.15	\$19.06	\$21.22	\$23.86
15	Administrative Associate II	Clerk of Courts					
15	Administrative Associate II	County Clerk					
15	Facilities Specialist	Facilities					
15	Financial Associate I	Highway					
15	Administrative Associate II	Human Services - BH					
15	C.N.A.	Park View Health Center					
15	Restorative Aide	Park View Health Center					
15	Corrections Financial Associate	Sheriff					
15	Financial Associate I	Sheriff					
15	Financial Associate I	Treasurer					
<b>Grade 16</b>							
16	Financial Associate II	Child Support	\$17.98	\$19.06	\$20.01	\$22.28	\$24.81
16	Administrative Associate III	Circuit Courts					
16	Administrative Associate III	Clerk of Courts					
16	Financial Associate II	Clerk of Courts					
16	Jury Clerk	Clerk of Courts					
16	Administrative Associate III	Corporation Counsel					
16	Administrative Associate III	County Clerk					
16	Administrative Associate III	District Attorney					
16	Financial Associate II	Finance					
16	Administrative Associate III	Highway					

## Fees for Mediation and Custody Study

1. For a mediation referred under Wis. Stat. 767.405(5):
  - a. For the first mediation session conducted upon a referral, no fee shall be charged.
  - b. For all mediation provided after the first mediation session, a single fee of \$150 assessed to each parent, regardless of the number of mediation sessions held.
2. For a custody study referred under Wis. Stat. 767.405(14):
  - a. An initial retainer fee of \$525 assessed to each parent.
  - b. An hourly billing rate of \$50 per hour to be assessed for all services provided. Unearned portions of the retainer fee will be returned upon completion and submission of the custody study. Amounts in excess of the retainer fee will be billed upon the completion and submission of the custody study.
  - c. Parents shall be assessed the cost to obtain records from third-party, collateral sources when such records are deemed necessary for the completion of the custody study.
3. Parents that incur fees for mediation or custody study services may apply to have the fee waived by returning an application to the office of Family Court Services as follows:
  - a. For mediation services provided pursuant to paragraph 1, within two weeks of the date the mediation file is closed.
  - b. For custody study services provided pursuant to paragraph 2, within 30 days of the court order referring the matter for study.
  - c. A separate waiver application must be submitted for each service.

**Completed Custody Study Billing History**

	<b>2018</b>	
<b>CLIENT (15)</b>	<b>INTERVIEW TIME</b>	<b>DRAFTING TIME</b>
BIRDER	14.5 HOURS	16.5 HOURS
CLOUGH	19.5 HOURS	43.5 HOURS
EWENS	16.5 HOURS	19 HOURS
GRAHAM	12.5 HOURS	25 HOURS
GRIFFIN	18 HOURS	26.5 HOURS
HEIDEMAN	15 HOURS	17 HOURS
HUGHES	22.25 HOURS	26 HOURS
KNAGGS	17.5 HOURS	22.5 HOURS
LLOYD	10 HOURS	34 HOURS
RAYMOND	12.5 HOURS	21 HOURS
ROSENBERG	13.5 HOURS	21 HOURS
RUSCH	12.5 HOURS	20 HOURS
SIMS	18 HOURS	29 HOURS
STAERKEL	17 HOURS	32 HOURS
STAERKEL (UPDATE)	6.5 HOURS	15 HOURS
<b>AVERAGE HOURS SPENT</b>	<b>15 HOURS (15.0)</b>	<b>23 HOURS (23.1)</b>

	<b>2019</b>	
<b>CLIENT (16)</b>	<b>INTERVIEW TIME</b>	<b>DRAFTING TIME</b>
BANCROFT	17 HOURS	34 HOURS
BANJAK	8.5 HOURS	9.5 HOURS
BANJAK (UPDATE)	11.75 HOURS	9.0 HOURS
BOTTENSEK	16.5 HOURS	36 HOURS
BRAUN	11.75 HOURS	21 HOURS
BUSKAGER	19 HOURS	19 HOURS
CLOUGH	15.5 HOURS	18.5 HOURS
DOTY	15 HOURS	27 HOURS
FOSS, D	20.5 HOURS	41 HOURS
HAWKINS	22.5 HOURS	35.5 HOURS
HOOYMAN	14.75 HOURS	27 HOURS
JOHANNES	12.50 HOURS	19 HOURS
MOORE	10.5 HOURS	14 HOURS
POPE	18.5 HOURS	29 HOURS
RIOS	8.5 HOURS	11.5 HOURS
VILLALOBOS	16.25 HOURS	22 HOURS
<b>AVERAGE HOURS SPENT</b>	<b>15 HOURS (14.9)</b>	<b>23 HOURS (23.3)</b>

	2020	
CLIENT	INTERVIEW TIME	DRAFTING TIME
DOMKOWSKI	13 HOURS	17.5 HOURS
HIMES	18.5 HOURS	45 HOURS
HOLM	14 HOURS	23 HOURS
SPRUILL	16 HOURS	27 HOURS
<b>AVERAGE HOURS SPENT</b>	<b>15 HOURS (15.3)</b>	<b>28 HOURS (28.1)</b>
	2021	
CLIENT (17)	INTERVIEW TIME	DRAFTING TIME
BAHR	24 HOURS	28 HOURS
CLOUGH (UPDATE)	9.75 HOURS	14 HOURS
DOMKOWSKI (UPDATE)	7.5 HOURS	12.5 HOURS
DRIER	22 HOURS	40.5 HOURS
FETT	24.5 HOURS	28 HOURS
FLYNN	22 HOURS	27.5 HOURS
FOSS-DENT	16.5 HOURS	39 HOURS
FOSS	17 HOURS	26 HOURS
GANT	21.5 HOURS	24 HOURS
KEEHAN	16.5 HOURS	19.5 HOURS
LEIBY	10.75 HOURS	14 HOURS
MURPHY	18 HOURS	33.5 HOURS
STREBE	20.25 HOURS	31 HOURS
WEYERS	19 HOURS	28 HOURS
WILLIAMS	19 HOURS	25.5 HOURS
<b>AVERAGE HOURS SPENT</b>	<b>18 HOURS (17.8)</b>	<b>26 HOURS (26.0)</b>

	2022	
CLIENT (9)	INTERVIEW TIME	DRAFTING TIME
BAIN	19.5 HOURS	23 HOURS
DENSON	25 HOURS	30 HOURS
ECKSTEIN	19 HOURS	32 HOURS
HODGES	19 HOURS	25.5 HOURS
MEYER	18 HOURS	20.5 HOURS
PIPKORN	16.5 HOURS	14.5 HOURS
RAYBURN	19 HOURS	20 HOURS
SULLIVAN	29.5 HOURS	20 HOURS
VANG	20 HOURS	28 HOURS
<b>AVERAGE TIME SPENT</b>	<b>21 HOURS (20.6)</b>	<b>24 HOURS (23.7)</b>

#### 5-YEAR AVERAGES

**INTERVIEW TIME: 17 HOURS (16.8)**

**DRAFTING TIME: 25 HOURS (24.8)**

**County to County Fee Comparison Table (Fees Per Parent)**

<b>COUNTY</b>	<b>PARENT EDUCATION GROUP FEE</b>	<b>MEDIATION FEE (after 1 free session)</b>	<b>CUSTODY STUDY RETAINER FEE</b>	<b>CUSTODY STUDY HOURLY FEE</b>	<b>STUDY TEAM MEMBERS</b>
WINNEBAGO	\$10	\$150	\$400*	\$40	2 Evaluators
OUTAGAMIE	\$10 (going to \$20 in 3/23)	\$100	\$350	\$35 (anticipated request to raise fees occurring in 2023)	1 Evaluator
CALUMET	\$20	\$160	\$500	\$48	1 Evaluator
LACROSSE	\$50	\$100	\$3,550 maximum flat fee	N/A	1 Evaluator, GAL, mental health provider
DANE	\$40	\$100	\$2,000 maximum flat fee	N/A	1 Evaluator
DODGE	\$20 in person \$40 on-line	\$100	\$175	\$50/hour	1 Evaluator
JEFFERSON	\$10 (basic course)  \$75 (high conflict course)	\$150	\$750 flat fee	N/A	1 Evaluator
WAUKESHA	\$60	\$200	\$1,000 maximum flat fee	N/A	1 Evaluator

FOND DU LAC	\$40	\$100	\$600	\$30	1 Evaluator
ROCK	\$40	\$75 to \$125	N/A	N/A	GAL only, fee is \$350

\*Winnebago County is the only county that does not require pre-payment of fees in order to access services immediately

When retainer/hourly billing utilized, final billing ranges from \$700 to \$1500 per parent depending on complexity of case