

DATE: *December 21, 2022*

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: _____

Other Committee: P&F

Action taken: _____

County Board

Meeting date: January, 9 2023

Vote: _____

Meeting date: February 8, 2023

Vote: _____

Meeting date: February 2023 TBD

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 be 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).

Average mediator salary is \$34/hour. Average administrative assistant 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. This simple billing system remains easy to track, manage and follow, for both mediators and clients.

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.

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