

STATE OF NEW HAMPSHIRE

PROBATE COURT

PROCEDURE BULLETIN 2

RELATIVE TO: Court-Appointed Counsel and Guardians ad Litem; Motions to Exceed the Maximum Fee or Cap and Expenditure Guidelines

This procedure bulletin is prepared for informational purposes in processing case files. It is not intended to provide parties with legal advice.

Motions to Exceed the Maximum Fee or Cap

Court-appointed counsel and guardians ad litem will file a Motion to Exceed the Maximum Fee or Cap prior to actually exceeding the original cap; the Motion will include a monetary amount for the proposed revised cap. Court-appointed counsel and guardians ad litem will not exceed a court-approved revised cap unless a new Motion to Exceed, with a new revised cap, has been approved by the court. No probate court will forward billing exceeding the original or revised cap without attaching a copy of the court order authorizing the same.

For the purposes of Supreme Court Rules 48 and 48-A, once a probate court has issued an order and the appeal period has passed, there is finality to the issue addressed by that order. Accordingly, whenever court-appointed counsel is reappointed, the maximum fees or caps detailed in Supreme Court Rules 48 and 48-A apply anew. When court-appointed counsel is reappointed, all probate courts will issue a Reappointment of Attorney, acknowledging that the monetary cap as detailed in Supreme Court Rules 48 and 48-A applies anew.

Expenditure Guidelines

Termination of Parental Rights under RSA 170-C. RSA 170-C contains no specific provision for court appointed counsel for petitioners. Accordingly, no probate court should appoint counsel for petitioners. RSA 170-C:10 provides that a parent respondent is entitled to counsel. If the parent respondent is indigent according to the appropriate guidelines, all probate courts may exercise discretion in deciding whether to continue the case in order to allow the parent respondent to reimburse some amount for counsel fees. RSA 170-C:8 provides that the probate court will appoint a guardian ad litem for the child in all termination hearings, and for an alleged incompetent parent in proceedings under RSA 170-C:5, IV. RSA 170-C:13 provides that the petitioner pay all court costs, unless the court suspends payment due to hardship on the petitioner. In those cases, all probate courts will

