



March 2021

46 - 2020 NOTICE TO THE PROFESSION

1. INTERIM ACCOUNT BILLING – NOW ACTIVE

In 2013 LAM put in place the interim billing provisions set out in NTTTP 20 – 2013. At the request of several private bar lawyers and CDLAM, LAM has created a process that will permit interim statements of account in all cases where:

1. at least one full day of trial or preliminary inquiry has taken place;
2. the hearing has been adjourned; and,
3. the next hearing date will be at least 30 days away.

PBOnline now allows counsel to bill interim accounts where the above conditions are met. This option is available on all file types (Criminal, Family and Child Protection).

All interim accounts billed prior to March 31, 2021 where properly certified will be eligible for the 25% increase as described in NTTTP 44-2020.

2. CANCELLED TRIALS – Administrative Increase to cover preparation for second and subsequent Preliminary Inquiry and Trial dates cancelled due to COVID-19 – PROGRAM EXTENDED

At a meeting of Management Council February 23, 2021 it was determined that this program shall continue or the next fiscal quarter. It will be reviewed again in June 2021.

As set out in NTTTP 44 – 2020 and 45 – 2020 counsel may request this increase for a preliminary inquiry or trial date where the following conditions are met:

1. The matter is not a BCM matter on which an agreement has already been accepted by counsel;
2. A trial or preliminary inquiry has been adjourned due to COVID-19;
3. The trial or preliminary inquiry was set for not less than 1 full day;
4. Counsel certifies that at least 5 hours per day of the set length of the trial has already been expended in the preparation of the matter;
5. There was no resolution of the trial or preliminary inquiry entered into prior to the adjournment, and the matter has either been rescheduled to a new trial date, or date setting court, or a direct indictment has been preferred.

Counsel have recently requested this increase where a hearing has been cancelled more than once. LAM has determined that in keeping with the rationale for NTTTP 44 an additional

increase of up to 5 hours preparation will be considered for each day of the subsequent hearing that was cancelled. Counsel must provide the same certification as was noted in NTTP 44 and also provide :

1. certification of additional time required for preparation following the first adjournment,
2. a list of the new tasks reasonably required, and completed, following the first adjournment to prepare for the subsequent hearing.

Where an additional increase is appropriately justified, discretion will be exercised to grant preparation fees as per NTTP 44 for second, and subsequent, adjournments due to COVID-19 restrictions.

3. OUT OF COURT FAMILY RESOLUTION CERTIFICATES

Over the past year Legal Aid Manitoba, in cooperation with Facilitated Solutions (FS), was offering focused mediation services on a trial basis to assist counsel in reaching settlements where a discrete issue might prevent resolution and avoid formal Court / Litigation process.

LAM has been advised that effective immediately FS will no longer be offering mediation or parent coaching services in family matters. As a result these services are no longer available in the ordinary course.

LAM appreciates the opportunity to partner with FS and will continue to consider new opportunities as they arise. Counsel are, as always, able to request a disbursement where a discrete issue needs to be resolved and expert assistance is likely to assist in avoiding a formal court proceeding.