

TENNESSEE AOC CLAIMS AND PAYMENT (ACAP) SYSTEM

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TN Supreme Court Rule 13, Section 1 (d)(2)

1. Reports of abuse or neglect or investigations under T.C.A. §§ 37-1-401 through 37-1-411 – Court shall appoint a GAL for every child upon the filing of a petition or court's own motion, based upon knowledge or reasonable belief child may be abused or neglected.
2. Child entitled to GAL in contested TPR proceedings.
3. Parent is entitled to representation by legal counsel at all stages of any proceeding involving: Abuse, dependency or neglect pursuant to T.C.A. § 37-1-102; or Termination of parental rights pursuant to T.C.A. § 36-1-113; or contempt proceedings including child support or truancy.
4. Parent is entitled to representation in cases alleging unruly conduct of child which place child in jeopardy of removal from home.



Appointment of Counsel/GAL

- If a person appears without counsel, the court shall ascertain whether the person knows of the right to counsel and of the right to be provided with counsel by the court if the person is indigent.
- If the person is indigent, the court shall provide counsel for the indigent person after making a determination of such person's indigency.
- The court may continue the proceeding to enable a person to obtain counsel if so requested.



Appointment of Attorneys under Rule 13

- The rule requires the court to keep a roster of attorneys available to take appointments. Attorneys can go to their local court administrator or court assistant, or in some cases the judge, and ask to be put on the roster.
- Attorneys can also be present during proceedings in which appointments will be required. In open court, the judge may ask of the attorneys present who is able to take an appointment. At that time, an attorney can volunteer for appointment and be appointed from the bench.



GAL Fees for Non-Indigent Parties

In re Jackson, (2016 WL 6426742, Tenn. Ct. App. 2016)

- T.C.A. § 37-1-150: If parents have been found financially able to defray a portion or all of the cost of child's representation, court may order parents to pay all or a part of GAL's reasonable compensation.
 - GAL must submit Affidavit of Attorneys Fees for determination;
 - Court must provide due notice to the parents and afford them an opportunity to be heard;
 - Amount of compensation is not limited by Supreme Court Rule 13 as long as determined to be reasonable.



Requirements of Appointment Order

Five Items:

1. Style;
2. Case number;
3. Judge finding that the client is indigent;
4. Statement appointing attorney to represent the client; and
5. Judges signature.

Appointment Order Templates: <https://www.tncourts.gov/programs/court-improvement/forms-orders>



Start Getting Paid through ACAP

1. Set up ACAP Account
 - a) Go to Website
 - b) Login Screen
 - c) Register for ACAP

******Or just email acap@tncourts.gov and the registration link will be sent to you******

2. Complete and sign W-9; then send W-9 back to AOC to begin billing.
3. Complete individual ACAP training with Amy if you need additional assistance.



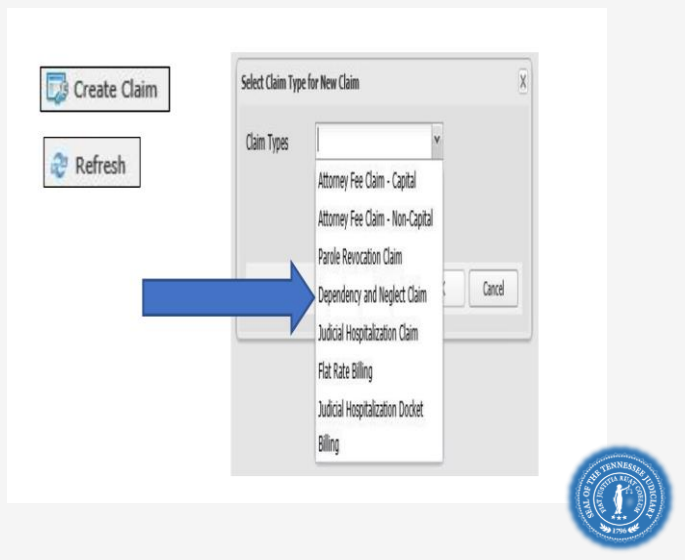
**THE
MAIN GOAL IS TO
PAY YOU!!**

For assistance with your W-9 for ACAP, please email:

W9.HELP@TNCOURTS.GOV

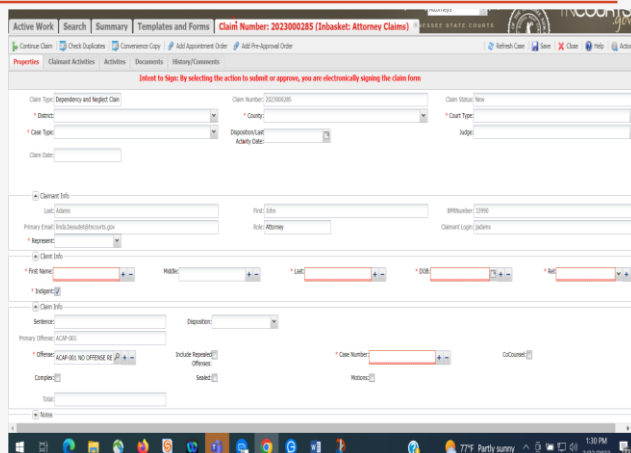
Creating a Claim in ACAP

- ✓ After you log into ACAP you will see the Create Claim Button in the left corner.
- ✓ Click on the Create Claim Button.
- ✓ A drop-down menu will appear.
- ✓ Please pick the Dependency and Neglect Claim type.



Properties Tab

- You must fill out the Properties Tab in the following order:
 1. District;
 2. County;
 3. Court Type;
 4. Case Type.
- You must choose from the drop-down menu. If you type any information in the fields, ACAP will not save your changes.
- You must enter a disposition date or last activity date before you can select the judge from the drop-down menu options.
- ACAP has pre-filled the offense for you, please do not change the offense.



Claimant Activities

Claimant will select the Claimant Activities tab to enter expenses and hourly activities for reimbursement.

Below this tab, ACAP displays a toolbar with three buttons:

- 1) “Add” button will add and save your expense or hourly activities record.
- 2) “Delete” button is grayed out until you check mark the expense or hourly activities record you want to delete.
- 3) “Upload Receipt” button will populate the Add Document screen so you can browse your computer and upload your receipt.



Other Things Covered in Individual Training

- ✓ How to upload Appointment Orders, Motion and Complex Orders, Final Orders, etc.
- ✓ Things that will get your claims returned and where to find the returned claims.
- ✓ Things that will get your claims denied and what other statuses mean in ACAP.
- ✓ How to use the Search Tab.
- ✓ How to print a convenience copy.
- ✓ What do to if you do not see your judge name in the drop-down list.
- ✓ What to do if your judge is an “offline” judge.



D&N Phase 1/Phase 2 (S.Ct. Rule 13, Sec. 2 (d)(5))

- Phase I /Adjudicatory Phase: From filing of dependency petition through the dispositional hearing, including the preliminary hearing, ratification of the initial permanency plan, adjudicatory and dispositional hearings.
- Phase II/Post-Dispositional Phase: Post-dispositional matters including foster care review boards, court reviews, and permanency hearings until end of case
 - ❖ 180 days from end of case = last activity.



Payment/Caps for Appointed Work

- \$50/hour
- Caps (S. Ct. Rule 13, Sec. 2 (6)(A)(B)&(C))
 - Phase I Adjudicatory - \$1,000 (\$2,000 with approved complex/extended order)
 - Phase II Post-Dispositional - \$1,250 (\$2,500 with approved complex/extended order)
 - TPR - \$1,250 (\$2,500 with approved complex/extended order)
 - Direct Appeals to Circuit, COA, Supreme Court separately - \$1,000 (\$2,000 with approved complex/extended order)



Expenses (S. Ct. Rule 13, Sec. 4)

- Rule 13, Sec. 4 (a) - Expenses that do not require prior approval of judge and AOC: Kinkos (no receipt required); parking (\$10 daily/max with receipt); mileage; etc.
- Rule 13, Sec. 4 (b) - If expenses are not included under 13(4)(a), then they are likely to be found under 4(b) and require prior authorization for reimbursements. Examples of 4(b) expenses are: court reporter, medical records, out of state travel/lodging, publication.
 - You have to get a motion signed by judge and sent to AOC Indigent Team for prior approval in order to have those expenses paid by the AOC.
 - Once you get a judge and AOC's approval of dollar amount, then give that prior approval to your 13(4)(b) expert/investigator/reporter, then you get an invoice from them.



Out of Pocket Attorney Expenses

Example of paying up front for medical records.

- ✓ ***Always have prior approval.***
- ✓ Attorney pays for them up front.
- ✓ Upload your order from the judge showing prior approval, the prior approval signed by AOC, and your receipt paying the invoice.
- ✓ Make sure to keep track of these files, in case there is a question on the back end.



Expenses that Go into ACAP

Rule (4)(a) Expenses – Do not require prior approval

- Parking
 - Must have receipt
 - Convert receipt to pdf format and upload into ACAP
- Mileage
- Lodging

❖ Submit on the “Claims and Activities Tab”. Do not use Preapproval button.



Motion for Complex or Extended Order (S. Ct. Rule 13, Sec. 2 (d) & (e)(3))

- Dependency and neglect proceedings can take years to complete. Go ahead and submit motion and order for complex order to Judge. **Judge is decisions maker—not the AOC.**
- File a motion in the court where representation is provided.
- The motion must contain “*specific factual allegations demonstrating that the case is complex or extended.*” The Rule contains examples of character or reasons that would support the motion.
- The Judge needs to sign the complex order on or *before* your submission of the fee claim. Rule uses the term “contemporaneously” to indicate timing of judges order and your submission. When these were handled manually, an attorney could submit them together, but now that everything is electronic, you really need to submit the signed order first. You will hit the complex button in ACAP, ACAP will require you submit the signed order at that time.



Request for Expert

As of 2021, a request for an expert will not be approved in a D&N or TPR matter. Will only be approved in a delinquency matter where State has filed a notice of intent to transfer.

- Most people will have suggested expert names. AOC can make suggestions (not recommendations, not vouching).
- Generally should be located 150 miles of the courthouse. If they are beyond, have to demonstrate efforts to find someone closer.
- Ask experts if they will work for Rule 13 rate.
- Obtain CV and license.
- Obtain estimated dollar amount to be approved by Judge in the motion and order.
- Send the motion, order, CV, and affidavit to Indigentteam@tncourts.gov for approval.
- Sometimes AOC will pay the initial amount of 3500, then the expert needs to contact AOC before exceeding. Approval is added to the initial order and signed by AOC. Second signature serves as new prior approval.
- Internally, if denied, you can appeal to Director of the AOC and Chief Justice.
- If you are asking for a new kind of expert for which a rate is not determined, that has to be determined before approval by the Director and the Chief Justice.
- There is a two-week turnaround.



Appeals

- Your appointment at lower court will follow you all the way up to TN Supreme Court.
- You are appointed to represent your client all the way up until withdrawal.
- Each court is a separate fee claim.
- The disposition date is the date the court issues the opinion. It is not the issuance of the mandate.
- The time you spent on the case are the hours that qualify for payment.
- A qualified attorney is the only person that bills for work. Paralegal can't charge time.



Best Practices and FAQs

- Keeping track of 2000 hour calendar year or 8 hr in court/12 hour out of court daily limit. Possibly utilize Excel spreadsheet.
- Have a regular routine, because if you do get too far behind, miss something and then get paid, you cannot go back. You have the option, once you open the case, you can upload and update once a week but not submit. Good idea to keep up to date, before you lose your parking receipt, etc.
- ***You can wait too long to submit your claim!*** Can not pay late claims – anything submitted 180 days from disposition.
- You don't have to have a single hour to start the claim. You can add onto that claim. Everything will be saved. Look for the add button on the claims and activities tab, the add button saves activities.
- Make a habit to check returned claims tab once a week or once a month.



Best Practices

- You can only have one claim per case/phase.
 - If you have a father with one petition, but another petition on another child and they are disposed of together, then this is the same claim.
 - If have multiple petitions or multiple disposition days, then can have multiple claims.
- It is a good idea to have direct deposit set up because you will be paid faster.
- Redact personal identifying info before putting into ACAP. (Bank account numbers, social security number.) Our auditors go through 12k fee request a month. Goal is to send to finance within 30 days. But have to have the right information in there and the wrong information not in there.
- If you are thinking about indigent work, and have some time, go ahead and open an ACAP account. Then, once you begin taking cases, you won't have to wait or delay.



FAQs

Q: What happens once I hit submit claim?

A: Claim goes to the judge. Judge has the authority to return it. If judge approves, then comes to AOC Auditing staff. They are looking for 5 things in the order along with the receipts, mileage (starting and destination city).

Q: If there is an error/problem, how will the claim come back to me?

A: In the return claimed tab in ACAP there are three columns. One column is claim/returned claims. You will not get an e-mail. You will also see these in the search tab, but they will be read only so you can see them but cannot do anything with them.

Q: Do the 180 days continue to run while there is an error pending on a claim?

A: First time you hit submit, stops the 180 days.



FAQs

Q: Can I get to the error by opening up the claim inside the claim and finding the history comments? (Like why it was returned either by the judge or auditor.)

A: ACAP auditors will not receive an e-mail notification if you ask them a question on the claim within the claim. When you add a comment, it stays on the claim. Please e-mail the indigent team directly with questions. They will not see comment on claim until they are back in auditing stage.

Q: What happens if it was returned by judge/auditor but I don't agree?

A: If the judge does not approve, discuss why with judge, fix it and resubmit. If it is not accepted by AOC, then find out why. If it is something like a missing receipt for parking, then submit the receipt and resubmit. If it is more substantial, then read the history comment and email us if you do not understand it. Take appropriate action then resubmit.



FAQs

Q: What are the top 2 reasons ACAP administrators send claims back?

A: 1) The order does not indicate that the client is indigent and 2) Personal identifying information such as DOB or SSN has not been redacted.

Q: Can court reporters be paid directly for their services and are there certain procedures that have to be followed for that process?

A: The AOC will pay court reporters directly so long as you obtain prior approval and the proper Procedure for Payment of Rule 13 Expenses is followed as set out in the Memorandum dated September 27, 2019 which can be found at _____.

Q: What do attorneys need to do if they move or change firms?

A: Attorneys must fill out a new W-9 and submit it to the AOC to assure timely payment through the ACAP system.



Questions?

- Training is not required, but is strongly advised.
- Indigentteam@tncourts.gov. This e-mail address is our catch all. You can send questions here. “Can I get paid for this?” Trying to make this a one stop shop.
- Colleagues are a great resource, but make sure to ask the AOC when you have questions so you know you have the right information!

