

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED

OCT 23 2012

Clerk of the Courts

**IN RE: ORDER ESTABLISHING  
TENNESSEE SUPREME COURT RULE 13A,  
ELECTRONIC INDIGENT FEE CLAIM SUBMISSION**

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**No. M2010-00520-SC-RL2-RL - Filed: October 23, 2012**

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**ORDER**

On March 8, 2010, the Court filed an order adopting Rule 13A on a provisional basis from May 1, 2010 through August 1, 2011. Rule 13A authorized the Administrative Office of the Courts to establish a system for the electronic submission of certain fee claims associated with the representation of indigent litigants and also authorized the Director of the Administrative Office of the Courts to establish a schedule of phased implementation of the system.

On May 10, 2012, the Court filed an order noting that the Administrative Office of the Courts had implemented the electronic-submission system authorized by the rule, and that the system was being used on a routine basis. The Court also announced its intention to undertake an internal review of the electronic-submission system, with a view toward adopting a permanent version of Rule 13A, and extending the effective date of provisional Rule 13A until further order of the Court.

Having completed the internal review of the electronic-submission system, the Administrative Office of the Courts has proposed that the electronic-submission system should be made mandatory for attorneys and interpreters, effective July 1, 2013, and that experts, investigators, and other support service providers should continue to submit claims in writing after that date. To accomplish this, the AOC has proposed amendments to Tenn. Sup. Ct. R. 13, 15, and 42, and the deletion of Tenn. Sup. Ct. R. 13A (as obsolete). The Court hereby publishes the AOC's proposed amendments and solicits written comments concerning the amendments from the bench, the bar, interested organizations, and the public. Appendix A to this order sets out the proposed amendments to Tenn. Sup. Ct. R. 13, Sections 5 (e)(4) and 6 (a)(1). Appendix B sets out the proposed amendments to Tenn. Sup. Ct. R. 15, Section 2. Appendix C sets out the proposed amendments to Tenn. Sup. Ct. R. 42, Section 7 (g). (If those amendments are adopted, Tenn. Sup. Ct. R. 13A would be repealed in its

entirety.) Written comments shall be received by the Clerk on or before Friday, December 14, 2012. Comments should be addressed to:

Michael W. Catalano, Clerk  
Re: Rule 13A Amendments  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219- 1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

*Appendix A*

Tenn. Sup. Ct. R. 13

Appointment, Qualifications, and Compensation of Counsel for Indigent Defendants

Amend Section 5(e)(4) as follows (new text indicated by underlining):

(4) Once the services are authorized by the court in which the case is pending, the order and any attachments must be submitted in writing to the director for prior approval. Claims for these services may not be submitted electronically.

Amend Section 6(a)(1) as follows (new text indicated by underlining; deleted text indicated by overstriking):

~~(a)(1) Claims for attorney compensation and expenses shall be filed with the court clerk's office on forms approved by the AOC. The claim shall be reviewed and approved by the judge who presided over final disposition of the case prior to the submission of the claim to the AOC for payment.~~ All claims for attorney compensation and expenses shall be submitted utilizing the system established by the AOC for electronic submission. Claims of two hundred dollars (\$200.00) or more for attorney compensation and expenses shall be electronically submitted, and shall be reviewed and approved by the judge who presided over final disposition of the case prior to payment by the AOC. Electronic claims that total less than two hundred dollars (\$200.00) shall be exempt from the judicial review and approval requirement; such claims, however, shall be subject to the AOC's examination and audit pursuant to this section.

*Appendix B*

Tenn. Sup. Ct. R. 15  
Reimbursement of Costs in Mental Health Proceedings

Amend Section 2 as follows (deleted text indicated by overstriking):

**Sec. 2. Compensation for Appointed Counsel.** Claims for compensation and reimbursement of expenses in judicial proceedings under Chapters 3 through 8 of Title 33 shall be filed ~~and acted upon by the appointing court~~ in compliance with Rule 13. The director of the Administrative Office of the Courts shall examine and audit such claims and determine the amount of compensation and reimbursement pursuant to Rule 13.

If an attorney is substituted for an attorney previously appointed for the indigent person in the same case, the total compensation which may be paid both attorneys shall not exceed the maximum compensation set by Rule 13 for one proceeding. In such cases, compensation for attorneys' services shall not be fixed by the judge until the conclusion of proceedings, so that the judge may make such apportionment between the attorneys as may be just.

## *Appendix C*

### Tenn. Sup. Ct. R. 42 Standards for Court Interpreters

Amend Section 7(f) as follows (new text indicated by underlining, and deleted text indicated by overstriking):

**(f) Claims Procedures.** Claims for compensation of interpreters and translators shall be submitted utilizing the system established by the AOC for electronic submission. The interpreter/translator's submission to the AOC must also include a copy of the court's order appointing the interpreter/translator.

~~(1) Claims that total \$200 or more for compensation and expenses shall be reviewed and approved by the judge who presided over the final disposition of the case prior to payment of the claim by the AOC; Claims for compensation of interpreters and translators shall be submitted by the interpreter/translator to the AOC on forms (electronic or paper) as determined by the AOC. The forms must be signed by the court or counsel. The interpreter/translator's submission to the AOC must also include a copy of the court's order appointing the interpreter/translator. The AOC shall examine and audit all claims for compensation and reimbursement to insure compliance with this rule and any other applicable rule or statute(s).~~

~~(2) Claims that total less than two hundred dollars (\$200.00) shall be exempt from the judicial review and approval requirement. Such claims, however, shall be subject to the AOC's examination and audit pursuant to section 7(f)(4). The AOC is authorized to establish and implement a system for the electronic submission of claims for payment of fees and expenses incurred pursuant to this rule.~~

~~(i) Electronic claims that total less than two hundred dollars (\$200.00) shall be exempt from the judicial review and approval requirement. Such claims, however, shall be subject to the AOC's examination and audit pursuant to section 7(f)(4).~~

~~(ii) Until the electronic claims system is implemented, claims for payment of fees and expenses under this rule may be filed by using paper claim forms. The AOC, however, is authorized to require the use of the electronic claims system for~~

~~all claims submitted after implementation of the system, unless the AOC authorizes the submission of a claim in some other form because of exigent circumstances in a particular case.~~

(3) Time for Submitting Claims. Claims for compensation under this rule shall be submitted within 180 days of the day the services were rendered. Claims submitted more than 180 days after the services were rendered shall be deemed waived and shall not be paid. ~~The time limitation imposed by this section shall become effective on October 1, 2012.~~

(4) Examination and Audit by AOC.

(i) The AOC shall examine and audit all claims for compensation and reimbursement to insure compliance with this rule and any other applicable rule or statute(s). The AOC may decline to make any payment should there be a failure to comply with the requirements of this Rule or any other Rule or statutory requirements.

(ii) After such examination and audit, and giving due consideration to state revenues, the director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction thereof.

(iii) Payment may be made directly to the person, agency, or entity providing the services.

(iv) The determination by the director shall be final, except where review by the chief justice also is required. In those instances, the determination of the chief justice shall be final. The chief justice may designate another justice to perform this function if the chief justice determines that a designation is appropriate or necessary.

(v) If the director denies a fee claim in whole or substantial part, such denial shall be forwarded to the chief justice for review. The determination of the chief justice shall be final. Reductions made during the process of auditing a fee claim which are due to mathematical miscalculations or result from requests for payments not permitted by this rule shall not be forwarded to the chief justice for review.

(vi) The payment of a claim by the AOC shall not prejudice the AOC's right to object to or question any claim or matter in relation thereto. Claims shall be subject to reduction for amounts included in any claim or payment previously made which are determined by the AOC not to constitute proper remuneration for compensable services. The AOC reserves the right to deduct from claims which are or shall become due and payable any amounts which are or shall become due and payable to the AOC.