

WAC 388-885-013 Limitations on reimbursement costs related to expert evaluations.

(1) "Expert evaluation cost" means the cost of a professional psychiatric and/or psychological evaluation of a person for purposes of assessing and/or rendering an opinion about whether such person meets the criteria for commitment, release, or conditional release in the civil commitment process under chapter 71.09 RCW. The department will pay for the cost of only a single professional at each stage of the civil commitment process for the prosecution. The department will pay the cost of a single professional at each stage of the civil commitment process for the defense. Whenever possible the same expert or professional previously used in an earlier stage of the process will be used for a subsequent stage of the civil commitment process.

(2) "Supporting expert cost" means the cost of a specific physical or specialty testing done by other experts at the request of the single expert for the state or defense if such testing is normally relied on by the professional community in conducting an evaluation and ordered by the court for good cause shown. Such costs are payable as incidental costs and are not included in the limitations imposed by WAC 388-885-035.

(3) The department will reimburse a county for costs related to the evaluation of an indigent person by an additional examiner only upon a finding by the superior court that such appointment is for good cause.

(a) The department shall be provided notice of any request and have an opportunity to respond in writing and to be heard at a hearing to determine good cause for expert funding in excess of amounts allowed in WAC 388-885-035. Such a notice and request shall not be shared with the prosecuting agency, nor shall the pleadings, contents and results of the hearing be shared with the prosecuting agency.

(b) If the respondent makes a claim of privilege regarding the information to be provided to support the finding of good cause the court may order that records supporting the determination of good cause be produced in camera for determination of the applicability of any claims of privilege and to decide the issue of good cause.

(c) Any claim of privilege made to the information covered herein is not waived by providing the documentation to DSHS. If a claim of privilege is made to documents to be provided to DSHS the defense may request a sealing order prior to providing the documents in order to maintain the privilege.

(d) Prior to any release of such documents or information to any other person, agency, or party, the department will notify the attorney of record for the respondent involved and provide a reasonable time for review and application for a court order preventing the proposed release.

(e) In making its finding of good cause the superior court shall consider and issue written findings on whether:

(i) Any previous expert(s) appointed to assist the indigent person lack expertise to address a new area of concern;

(ii) The request for an additional expert is being requested merely because the opinion of a prior expert was not favorable to respondent's position;

(iii) The request is being made for the purpose of delaying the proceeding; or

(iv) The previously appointed expert is unavailable for testimony at trial.

(4) The department will not reimburse a county for expert evaluation costs if:

(a) The appointed expert lacks appropriate qualifications under WAC 388-880-033;

(b) For any charges related to an expert's international travel to or from a destination outside of North America, including but not limited to, airfare, meals, hourly rates, and accommodations;

(c) For an updated evaluation where the prior evaluation is less than twelve months old; or

(d) Evaluator costs associated with mental health or sex offender treatment services rendered to person committed or detained under chapter 71.09 RCW.

[Statutory Authority: Chapter 71.09 RCW, RCW 72.01.090, 2010 c 28, 2010 c 37, and Washington state supreme court decision No. 80570-9 re Detention of John L. Strand, filed October 8, 2009. WSR 11-10-086, § 388-885-013, filed 5/4/11, effective 6/4/11. Statutory Authority: Chapter 71.09 RCW and RCW 72.01.090. WSR 08-19-042, § 388-885-013, filed 9/11/08, effective 10/12/08.]