

NON-ROUTINE EXPENSE REQUESTS - TEN IMPORTANT QUESTIONS

1. Is the attorney court-appointed; if retained, has the court entered an order that the client is eligible for appointed counsel?
2. What are the charges/allegations?
3. Has there been a change in circumstances since completion of the affidavit of eligibility, of which the attorney is aware, that would make the client able to pay the cost of the requested service?
4. Has a previous request been made in the case for similar or related services? If so, why is the additional expense needed? What was completed under the previous authorization(s)?
5. What will the provider do? (E.g. interview 10 witnesses, examine scene of events.)
6. Why is the service needed and how will provider's service benefit the defense? (E.g. What circumstances make it reasonably probable that the expenditure will benefit the defense or create a significant risk of error in the proceedings if the expense is denied? If a polygraph is requested, what fact(s) will be the subject of the test, what circumstances create a reasonable probability that the client will pass the test, is the DA in the county usually willing to consider the results in plea negotiations, disposition, etc.?)
7. Are there co-defendants? Can counsel obtain items (copies of photos, tapes, other discovery) from co-defendants' counsel at a cost significantly below the cost to obtain these items from the original source? Are there other services that can be shared in co-defendant cases without prejudice to any of the defendants?
8. Will the provider work for the guideline rate? Attorney needs to have made this request of the provider or be aware that the provider has declined to work at that rate. If not, why can the attorney not use the services of another provider at, or closer to, the guideline rate? (Note: If the provider is out-of-state, the request must show either that there is no qualified provider in the state or that the out-of-state provider is less expensive.)
9. If the provider is requesting, for example, an unusual number of hours at the guideline rate, why are 20 hours, instead of 5 needed for this particular evaluation, investigation, etc.? (E.g. lengthy records to review, multiple conditions to be explored, multiple incidents to evaluate.)
10. Note whether expedited consideration is requested.