

# Introduction

## Exceptional Circumstances

## Payment Requests

**Family Law – 1 Year Trial**

**LEGAL AID**  
SASKATCHEWAN

January 24, 2025  
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# Purpose

To orient legal aid lawyers re.  
the new exceptional  
circumstances payments  
request policy, process

To answer questions and  
address concerns

# Exceptional Circumstances (EC) Payments Policy

## ("Additional Hours")

Legal Aid tariff normally applies

Exceptional circumstances payment assessed by PB Clerk (up to 10 hrs.), PB Director (10 hrs. plus)

How to make a request – complete form, email with account

Guidelines with specific eligibility criteria – results obtained, complexity, forensic evidence, etc.

Principles for EC payments – onus on lawyer to provide sufficient information to justify EC payment

# Legal Aid tariff normally applies

The LAS Legal Aid Tariff of Fees, Schedule “A” General Conditions states:

- *This tariff is intended to reflect fees that would customarily be paid by a client of modest means. The Chief Executive Officer may if a solicitor can show extremely exceptional circumstances due to:*
  - *the nature of the offence,*
  - *complexity of the case, and/or*
  - *any other factors that would warrant an increase in preparation time for the file, provided in his/her opinion an increase is justified.*

CEO authority is delegated to the Private Bar Services Director pursuant to *Legal Aid Act*

# Do lawyers need to request approval of “additional hours” prior to the hours being spent? **No**



Counsel will no longer request “additional hours” approval prior to the hours being spent



It is easier for the bar and LAS

The bar only has to contact LAS once regarding the additional hours – at the time of billing.

LAS only has to touch the account once. Staff do not have to review a request for additional hours in advance of billing.



Many private bar members do not know how many additional hours to request prior to the matter being heard/dealt with, and LAS does not know how many hours to approve.



Exceptional circumstances Guidelines provide clarity as to when hours may be granted providing the private bar with some certainty

# What are the exceptional circumstances Guidelines?

The Guidelines describe and clarify in accordance with the Rules, exceptional circumstances for which a lawyer may be eligible for an increased payment above tariff.

The Guidelines are not exhaustive

The onus (burden) is on the lawyer to provide sufficient details and explanation as to how the matter meets the exceptional circumstances test. Simply indicating one of the guidelines has been met is not sufficient.

Once the exceptional circumstances criteria are met, LAS will determine the amount of payment taking into consideration

- What is usually billed for cases of similar type based on the experience of LAS staff in processing accounts and the practice of law.
- The nature of the exceptional circumstances.
- What a client of modest means would pay.
- The work done by a lawyer based on the information provided in the lawyer's request.

# Guidelines: Family – Child Protection

## **Results Obtained**

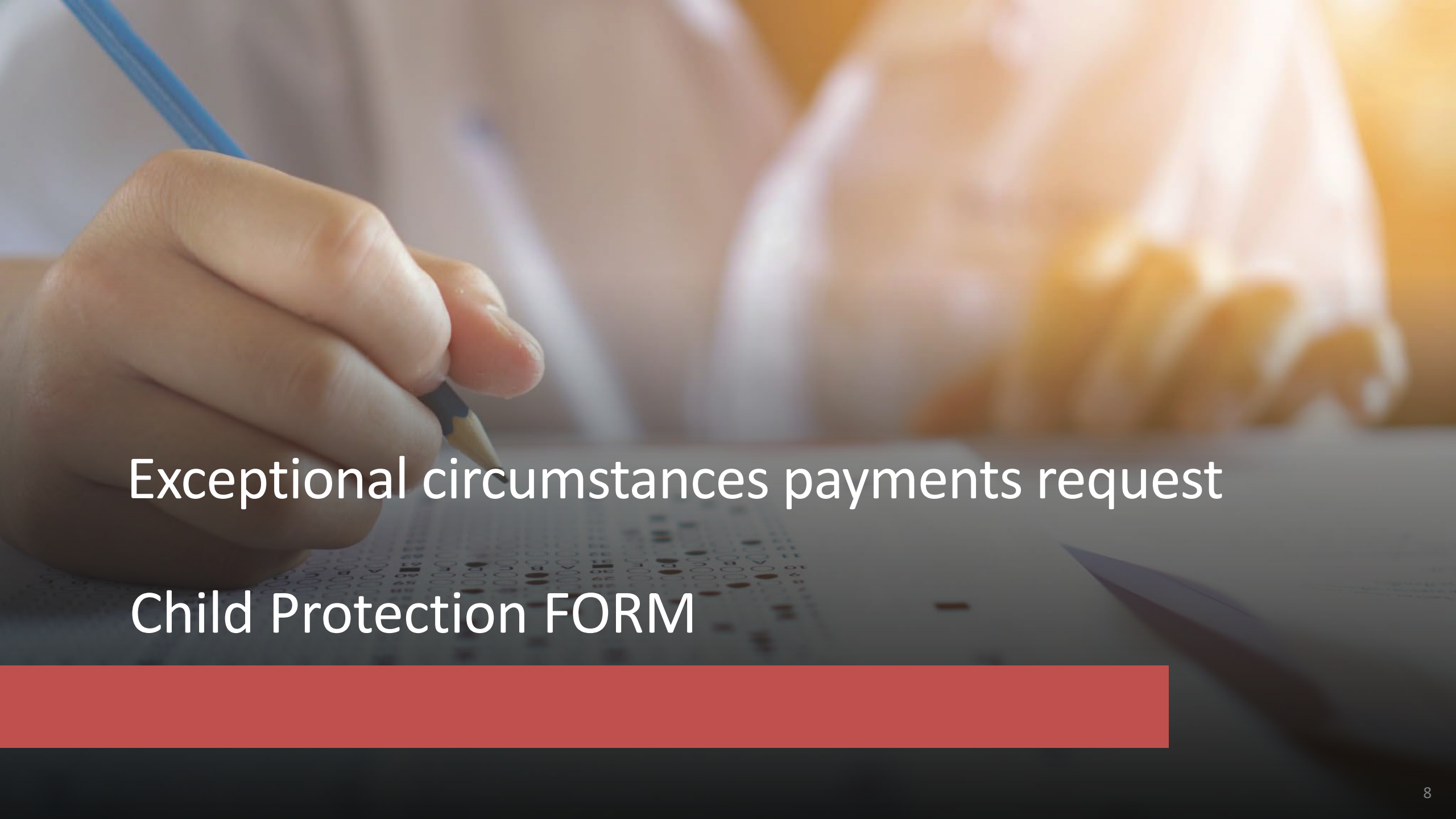
- Protection Application – no protection order made
- Motion – temporary care and custody – no temporary care and custody order made
- Motion – summary judgement on protection application – successfully defunded and/or costs awarded
- Status review

## **Complexities**

- Child or parent special needs (e.g.: mental illness, addiction)
- Sexual or serious physical abuse allegations (criminal charges)
- Indigenous factors, band issues

## **Relevant factors**

- Disclosure
- Forensic / expert evidence
- Multiple children / parents / parties
- Timelines / reduction in appearance through mediated / negotiated settlement
- Well funded litigant

A close-up photograph of a hand holding a blue pencil, writing on a document. The background is softly blurred, showing a person's face and a lamp, creating a warm, focused atmosphere. The text is overlaid in white on the lower half of the image.

Exceptional circumstances payments request

Child Protection FORM



# Guidelines: Family – Support, Custody, Access

## **Results Obtained**

- Motion for interim spousal support – award at high end of spousal support guidelines
- Motion for interim child support – retroactive to date of application or, support ordered other party “in loco parentis”
- Access, custody: custodian successful in mobility application or, change in “de facto” custody due to parental alienation
- Change in interim custody
- Contested no access order

## **Complexities**

- Child’s special needs (e.g.: mental illness, addiction)
- Self-employed payor, imputing income for child support
- Sexual or serious physical abuse allegations
- Hague Convention matters

## **Relevant factors**

- Disclosure
- Forensic / expert evidence
- Multiple children / parents / parties
- Timelines / reduction in appearance through mediated / negotiated settlement
- Client out of jurisdiction
- Well funded litigant


A close-up photograph of a hand holding a blue pencil, poised to write on a document. The document has a grid pattern of small circles. The background is blurred, showing a person's hands and a white object. The text is overlaid on the document.

Exceptional circumstances payments request


Support, Custody, Access FORM

# How do I request an 'exceptional circumstances' payment?

Complete the Exceptional circumstances payment (ECP) request form. Attach the form to the specific account for which a request is being sought; an ECP request form should not be sent separately from your account.



Complete a separate ECP request form for each account you submit for work completed during the service period of that account.



Submit your ECP Request and account by emailing LAS Central [PBAccounts@legalaid.sk.ca](mailto:PBAccounts@legalaid.sk.ca) with the subject line ECP Request

# Reasons for reducing or denying EC requests

## Hours requested reduced:

- Hours exceeded those usually billed for cases of similar type based on the experience of LAS staff in processing accounts and the practice of law
- Hours exceeded that which a client of modest means would pay

## Hours requested denied:

- Counsel failed to establish exceptional circumstances that would warrant an increased fee

# Resources

Private Bar Billing and Payments Handbook

<https://legalaid.sk.ca/lawyer/policies-conditions/>

Chapter 2.7 Exceptional Circumstances Payments

# Trial



Trial Period: Monday, February 15, 2025, to February 13, 2026



All appointments with **no prior requests** for “additional hours”, are eligible



EC Trial support meetings with the panel will be scheduled if needed



Private bar clerk support available:

[pboffice@legalaid.sk.ca](mailto:pboffice@legalaid.sk.ca)



Access EC materials on LAS website:

Exceptional Circumstances Orientation Materials

Exceptional Circumstances Payments Policy

Exceptional Circumstances Family Request Forms