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**Legal
Services
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April 2019

Legal Aid Brief

The Bargaining Incentive Bonus Explained

In this issue: What you need to know to get the Bargaining Incentive Bonus

As many of you know, the Association of Legal Aid Lawyers (ALL) recently accepted a Bargaining Incentive Bonus from the Ministry of the Attorney General and Legal Services Society to prevent a withdrawal of lawyer services earlier this month.

The offer was made possible with a \$4 million contribution from government and \$3.9 million from LSS. The \$7.9 million total will be used to increase payments to lawyers for a finite time while ALL, LSS, and the ministry negotiate a framework for increasing fees beyond the term of the agreement. They will also discuss the scope of legal aid eligibility and coverage.

The Bargaining Incentive Bonus is not a tariff lift. It is a bonus of 25% calculated on the amount paid for services rendered on or after April 28, 2019 — for representation and schedule-based contracts (duty counsel, circuit counsel and Family LawLINE), up to November 3, 2019. It does not apply to the \$500 Local Lawyer Incentive Payment or disbursements, including mediators.

How to get the Bargaining Incentive Bonus

To get the Bargaining Incentive Bonus, or BIB for short, you'll have to take a number of steps. **The payments are not automatic.** Some of the steps are the result of the agreement between ALL, LSS and government, which requires the Law Foundation to hold the monies for the payments and to distribute it. We realize it is a little complicated, but doing it this way resolved a number of accounting rules that allowed for a quicker agreement.

To participate:

1. Opt in to participate in the BIB

You will be required to indicate in LSS Online at time of invoicing that you want to participate in the BIB. The bonus will be paid by the Law Foundation, not LSS.

When you submit an invoice, you will have to indicate whether you agree that LSS can share your banking information with the Law Foundation. (We will not share any client information with the Law Foundation.)

If you do not indicate that you agree to LSS sharing your bank information with the Law Foundation, that invoice will not be eligible for the bonus. **If you are billing for services prior to April 28, 2019, you must submit them on a separate invoice.**

Important Note: If you do not opt in at the time of invoicing, that invoice will not be eligible for the BIB later on. There will be no retroactive payments.

You will get more information about the process soon.

2. Certify that the services were rendered on or after April 28, 2019

At the same time that you opt in, you will have to certify that any invoices you submit for a BIB are for services provided on and after April 28, 2019, up to November 3, 2019. More details will be coming soon.

3. Bill out as much work in progress as possible by April 27, 2019

By billing out any work in progress it will be easier for you to separate the services you provided before April 28, 2019, from the invoices eligible for the BIB.

This is not mandatory, only recommended.

Answers to common questions

When will the first bonuses be paid?

We expect that the first bonuses will be paid to lawyers by mid-June. We will let you know the payment schedule once we know more.

How will I know which services I am receiving a BIB payment for?

LSS will send the Law Foundation a payment total and they will pay you a lump sum. LSS will then send you an email with a breakdown of the contracts and services the BIB payment applies to.

How is the bonus money going to be spent over the agreement period? Could it run out early?

We cannot predict how quickly the money will be spent. Government and LSS monies will be distributed over the months of the agreement as follows:

April 28 – June 30, 2019: \$3.9 million is available for the bonus.

If the money is used up before the end of this time, we can't pay the BIB until the next pot of money becomes available.

July 1 – August 31, 2019: Any money left over from the \$3.9 million plus another \$2 million is available.

If we were unable to pay some of the invoices submitted in the previous time period, we will pay those first.

Sept 1 – November 3, 2019: Any left over money plus another \$2 million is available.

Once the \$7.9 million runs out, lawyers will no longer receive the Bargaining Incentive Bonus, even if that's

before the end of the term of the agreement.

If all the milestones in the agreement (see below) have been met before November 3, 2019, and there's still money left, it will be distributed to lawyers on a *pro rata* basis on services performed and billed between April 28 and November 3, 2019.

What is the process for bargaining among LSS, ALL and the Ministry of Attorney General?

A couple of milestones have to be met over the course of bargaining:

By May 30, 2019: ALL must have identified a negotiator and communicated its negotiating position, and there must be a framework in which the parties agree to negotiate.

By August 31, 2019: The parties are required to make best efforts to come to an agreement in principle, including agreement on a proposal to Treasury Board to address some or all of the following: government funding for legal aid, including coverage and eligibility; the tariff rates paid to lawyers; and a negotiated proposal for longer-term funding of legal aid.

The parties also have to make good faith efforts to resolve any issues regarding the legal status of the Association of Legal Aid Lawyers with respect to its ability to negotiate on behalf of legal aid lawyers.

If you have questions about the BIB, or anything else, please contact the Lawyer Support team at 604-601-6155 / 1-888-401-6206 or lawyer.support@lss.bc.ca

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