



Edwin W. Kelly
Administrative Judge

State of New Hampshire Judicial Branch
Family Division

Supervisory Judge:
John A. Korbey (603) 893-2084
Family Division Administrators:
Gina B. Apicelli, Esq.
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MEMORANDUM

TO: **NH Certified Guardians ad Litem for Marital Cases
In Family Division Locations**

CC: Family Division Clerks

FROM: Edwin W. Kelly, Administrative Judge

DATED: April 19, 2011

RE: ***Guardian ad Litem Appointments***

As you know, the Governor has proposed the elimination of the Guardian *ad Litem* Fund which pays GAL fees in the first instance for indigent parents *in marital cases*. This proposal has now passed the House. The impact of this proposal is that until we receive clearer direction from the legislature on the status of the GAL fund, the family division must proceed cautiously. To be clear, I am not comfortable with eliminating this important resource for children of indigent parents, nevertheless, the process outlined below is necessary in the short term. Attached is a Family Division Administrative Order effectuating the terms of this memorandum.

Both Parents Indigent (Fund Cases):

Starting today and until further notice family division judges and marital masters will no longer appoint GALs in any new or newly reopened marital case where both parents are indigent. If you have previously been appointed to any such case that remains pending, you must conclude your work by **June 1, 2011**. Ideally, this would mean that you work with the parents and their counsel to bring about a final resolution on all outstanding parenting issues, providing the court with your final report. If final resolution is not possible, then it will be necessary for you to file a status or preliminary report so the judge, marital master, and parties will have the benefit of your work to date.

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The last authorized date for work to be performed on these cases is June 1st. You must also submit all billing for court approval no later than **June 1st. Any submission received after that date will not be approved for payment.**

Partial Private Pay/Indigent Fund:

Starting today and until further notice family division judges and marital masters will no longer appoint GALs in any new or newly reopened marital case that would be partially paid from the fund in any case where one parent is indigent and the other parent is unable to pay the entire GAL fee. As with fully funded cases, for any cases that are in progress you must conclude your work by **June 1, 2011**. The only exception to this will be those cases in which you or a party to the case files a motion with the court requesting relief from Administrative Order 2011-03 and the court agrees that one party is able pay the entire GAL expense. If this is appropriate for select cases, any such motion should be filed in the coming days to allow for processing and judicial review/orders.

Unless the court orders the case to become a fully private pay case before June 1st, you are directed to complete your work by that date and submit all billing statements to the courts no later than **June 1st. Any submission received after that date will not be approved for payment.**

Private Pay:

For the time being, you may continue to receive appointments in cases where the court has determined cases to be privately paid – either by both parents or by one parent on behalf of the family. Although it is distasteful to continue with GAL appointments in only the private pay cases – essentially allowing a two tiered system - the reality is that for the time being, these are the only cases where appointment is feasible because of the uncertainty of the payment issue. This approach may be revisited at the conclusion of the legislative session.

I certainly wish our fiscal circumstances were such that children were not being limited in their access to quality Guardian *ad Litem* services. However, as things stand with the GAL fund, the steps outlined above are the responsible course of action.

I anticipate communicating with you again as the legislative year draws to a close. Thank you for your service.

EWK:lc

STATE OF NEW HAMPSHIRE

Judicial Branch Family Division

ADMINISTRATIVE ORDER NUMBER 2011-03

Pending further order and effective immediately, in light of legislation that will, if signed into law, eliminate funding for Guardian *ad Litem* services in marital cases for indigent parents, it is ordered as follows:

Cases in which both parents are indigent (fund cases):

No *Guardian ad Litem* may be appointed in any new or reopened marital matter where both parents are indigent.

Guardians *ad Litem* in any such pending matter are directed to conclude their work and provide a report and final bill to the court no later than June 1, 2011.

Partial private pay/indigent fund:

No *Guardian ad Litem* may be appointed in any new or reopened marital matter in which one parent is indigent and the other is able to pay for the services of a *Guardian ad Litem*.

Guardians *ad Litem* in any such pending matter are directed to conclude their work and provide a final report and final bill to the court no later than June 1, 2011.

In the event the parties agree that the private pay parent will assume full liability for payment of the *Guardian ad Litem* services, the parties or the *Guardian ad Litem* may file a motion with the court requesting relief from this Administrative Order.

Private pay:

This order shall not apply to any case where the parties are personally liable for the full amount of the *Guardian ad Litem* services.

Dated: April 19, 2011

/s/ Edwin W. Kelly
Edwin W. Kelly
Administrative Judge
Judicial Branch Family Division