

# Contribution and Reimbursement

A person who uses the services of assigned counsel due to their inability to afford legal representation may be required to pay for some, all, or none of the cost of assigned legal counsel and costs. Where a System of Indigent Defense provides, a person may be determined “partially” indigent and be required to make payments toward their defense costs. In addition, a defendant may be required to reimburse the cost of their defense as the conclusion of their case.

A defendant may qualify for assigned counsel when they face incarceration and are financially unable, without “substantial hardship,” to obtain “competent qualified legal representation” on their own. This determination is based on a number of factors and can be reviewed at any time during the course of a case.

Repayment of defense costs in an assigned counsel case may be ordered during the course of the case, or at the end of the case, or not at all. Where payments are required during the course of the case, these payments are “Contribution” payments. Where payments are required at and after the end of the case, these payments are “Reimbursement.”

## CONTRIBUTION

A defendant may be qualified for assigned counsel and be required to make contribution payments during the course of their case. “Contribution: means an “ongoing [payment] obligation [for one’s defense costs] during the term of the appointment.”<sup>1</sup>



Pursuant to the Michigan Indigent Defense Commission’s (MIDC’s) Standard on Indigency, the local funding unit may provide that contribution can be sought from a partially indigent person. The amount, timing, and duration of contribution during the course of the case must not cause defendant a substantial hardship. In setting the amount of contribution, the local funding unit must consider the defendant’s net monthly income and direct the defendant to remit no more than 25% of this amount each month. Similarly, contribution of non-exempt funds paid in a single lump sum cannot exceed 25% of the total nonexempt funds.<sup>2</sup> The appointing authority may adjust the amount or timing of payments any time to avoid causing defendant a substantial financial hardship. Wage assignment may be used if a defendant fails to pay ordered amounts.

Contribution payments end at the point of sentencing or dismissal of the case. A defendant cannot be required to pay more than the actual cost of defending the case. If contribution is less than the total cost of defense, the excess balance can be ordered as reimbursement. If all charges are dismissed or the defendant is found not guilty, then all contribution payments must be refunded.

<sup>1</sup> See *People v Jose*, 318 Mich App 290, 298; 896 NW2d 491 (2016).

<sup>2</sup> Examples provided in the MEDC Standard are as follows:

|                    |                                       |            |                           |
|--------------------|---------------------------------------|------------|---------------------------|
| Net Monthly Income | Monthly Expenses                      | Net Income | Max Contribution (25%)    |
| \$2,000            | \$1,600                               | \$400      | \$100                     |
| Total Assets       | Available/convertible Asset into Cash |            | Max Lump Sum Contribution |
| \$1500             | \$500                                 |            | \$125                     |

# Contribution and Reimbursement

## REIMBURSEMENT

Reimbursement is repayment of an “obligation arising after the term of appointment has ended.”<sup>3</sup>

Reimbursement may be ordered at the end of a case after a plea or conviction. The reimbursement amount is limited to the actual amount paid for defense of the case. The Court may require that reimbursement be imposed at sentencing. Repayment terms can be set by the Court. Even after sentence, where reimbursement of defense costs would cause a substantial financial hardship, defense costs may, in the Court’s discretion, be paid in installments, be reduced, or even waived.



---

<sup>3</sup> *People v Jose*, 318 Mich App 290, 298; 896 NW2d 491 (2016).