

**ITA Judicial Costs:
Actual Cost Data
Not Available;
Estimates Suggest
Wide Range in
Average Case Costs
Report 12-5**

July 18, 2012



STATE OF WASHINGTON
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Involuntary Treatment Act (ITA) Allows Involuntary Civil Commitments

The state Involuntary Treatment Act (ITA) is designed to:

- Prevent inappropriate involuntary commitments of mentally disordered persons;
- Protect clients' rights while providing treatment in a timely manner and in a community-based setting when appropriate; and
- Protect the public safety.

Under this Act, individuals are entitled to a court hearing to determine if a commitment should occur. These hearings are held in county Superior Courts, most frequently in one of the 13 Washington counties that have psychiatric evaluation and treatment (E&T) facilities. The individual may or may not be a resident of the county in which the hearing is held. These counties incur judicial expenses each time they handle an ITA commitment case.

Legislature Creates Reimbursement Process

Legislation in 2011 (Substitute Senate Bill 5531) created a process in which counties can be reimbursed for their actual judicial costs associated with the county-prosecuted ITA cases. Counties can bill their Regional Support Network (RSN). RSNs are responsible for the delivery of mental health services within designated geographic areas. The reimbursement process becomes available July 1, 2012.

The same legislation directed JLARC to:

1. Assess the actual direct costs of providing judicial services for involuntary civil commitments in each county;
2. Review and analyze the reasons for differences in costs among counties; and
3. Identify issues and methods for updating the costs to reflect changes over time.

JLARC Provides Initial Estimates to Start Reimbursements, But Case Cost Data Needs Improvements

Twelve of the 13 counties do not have processes in place to capture the actual ITA expenditure data necessary to calculate average case costs. JLARC used the best possible cost and case number information available to estimate average case costs for each county.

Based on county estimates, the average case costs range from \$282 in Skagit County to \$1,124 in Pierce County.

Case Costs Vary Among Counties Due to a Variety of Factors

Average ITA case costs vary among the counties due to personnel-

related factors and to other judicial services some counties provide. Personnel-related differences include differences in salaries and benefits paid to the county participants in ITA cases (judge or commissioner, public defender, county prosecutor, and county clerk), differences in the number of cases each of these participants handles, and differences in the amount of time each participant spends on ITA cases. Factors that influence the total amount of time spent include the number of times the person appears in court, the mix of different types of ITA hearings that each county handles, and the number of contested cases.

The provision of other judicial services also resulted in variations among the county ITA costs. Some but not all of the counties reported expenditures for other services such as transportation, security, witnesses, and interpreters. These other judicial service expenditures differed due to:

- Different approaches or needs counties have in conducting cases;
- Whether a county reported a cost it has; and
- Whether the county or another entity such as an E&T or RSN paid the cost.

To Comply with Statute, Counties and State Agencies Need to Track and Audit ITA information

From our efforts to gather actual expenditures and ITA case count information and to analyze the estimates provided by the counties, we have two recommendations. We have issued these recommendations so that counties can be accurately reimbursed by RSNs in accordance with statute, and rates can be appropriately updated to reflect changes over time.

Recommendations

Recommendation 1 – By January 1, 2013, the Department of Social and Health Services should report to the appropriate committees of the House and Senate a plan and timeline for implementing the ITA judicial cost reimbursement process under RCW 71.05.730. The report should include what should be done to:

- Determine allowable ITA judicial costs for inclusion in reimbursement rates;
- Establish contract provisions with RSNs that limit ITA judicial cost reimbursements to counties for their actual ITA judicial costs;
- Assure that actual cost data is collected, and reviewed or audited;
- Implement a method for updating rates; and
- Ensure that Maintenance of Effort as required in RCW 71.24.160 is met.

If applicable, DSHS should identify any resource needs, and may wish to comment on any alternate approaches to reimbursing counties for ITA judicial costs.

Recommendation 2 – The Administrative Office of the Courts should, consistent with RCW 2.56.030, take steps to ensure county Superior Courts and County Clerk's Offices are consistently applying the definition of an ITA case contained in RCW 71.05.730.

Pursuing Alternative Methods for Establishing and Updating ITA Reimbursement Rates Would Require Statutory Changes

Complying with statute will require counties and state agencies to take on new tasks to track and confirm actual judicial costs. JLARC has identified some alternative approaches currently used by other programs within the state to establish and update reimbursement rates that may be less resource-intensive to implement than the requirements in current law. However, adoption of any of these alternatives would require a change in statute. The alternatives are described in Appendices 3 and 4.