Office of the Clerk

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

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To: Candidates for Part-Time Magistrate Judge in Plattsburgh

Date: March 1, 2014

Subject: Information Concerning Reimbursement of Expenses of Part-Time Magistrate Judges.

The attached document outlines the various expenses that may be reimbursable for part-time magistrate judges.

Because the Clerk maintains a staffed office in Plattsburgh, the deputy clerk assigned will provide much of the administrative and clerical support required to support this part-time position.

The Judges chambers at the U.S. Courthouse facility in Plattsburgh is outfitted with the technical support equipment required for this position.

Guide to Judiciary Policy

Vol 3: Judges

Ch 13: Reimbursement of Expenses of Part-time Magistrate Judges

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§ 1310 Overview

§ 1310.10 Authority

(a) The statutory authority and framework for reimbursing part-time magistrate judges for their actual and necessary expenses is contained in 28 U.S.C. § 635(b), which states as follows:

> Under such regulations as the Director shall prescribe with the approval of the [C]onference, the Director [of the Administrative Office] shall reimburse part-time magistrate judges for actual expenses necessarily incurred by them in the performance of their duties under this chapter. Such reimbursement may be made, at rates not exceeding those prescribed by such regulations, for expenses incurred by such part-time magistrate judges for clerical and secretarial assistance, stationery, telephone and other communications services, travel, and such other expenses as may be determined to be necessary for the proper performance of the duties of such officers: *Provided, however*, that no reimbursement shall be made for all or any portion of the expense incurred by such part-time magistrate judges for the procurement of office space.

(b) In accordance with 28 U.S.C. § 635(b), the Director has issued the following regulations, set forth in § 1320, to govern reimbursement of expenses of part-time magistrate judges. They were approved by the Judicial Conference at its 1971 (JCUS-MAR 71, p. 16), session and amended at its 1975 (JCUS-SEP 75, p. 67), 1984 (JCUS-MAR 84, p. 18 and JCUS-SEP 84, p. 84), and 2001 (JCUS-MAR 01, p. 27) sessions.

(c) In addition, in order to promote a more uniform level of clerical support for those part-time magistrate judges who perform their duties in federal court space, the Judicial Conference at its September 1992 session, voted to encourage the district courts to provide to such part-time magistrate judges the same level of administrative support afforded to full-time magistrate judges, to the extent feasible. **See:** JCUS-SEP 92, p. 63. **See also:** Guide, Vol 4.

§ 1320 Director's Regulations

§ 1320.10 Funding

(a) Reimbursement of Expenses

Funding for reimbursement of part-time magistrate judges' expenses is based on historical expenditures and is included in the courts' total annual allotment received for operating expenses. Any changed circumstances in part-time magistrate judge positions requiring additional funding for reimbursement should be reflected in the court's budget call, with written justification describing the changed circumstances. In addition, the justification for Budget Object Code (BOC) 2533, Part-Time Magistrate Judges' Staff Salaries and Related Employment Expenses, should include the part-time magistrate judge's name and salary level; his or her employee's job title, hourly wage, and number of hours to be worked annually; and an itemized list of the costs for related employment expenses incurred by the magistrate judge. The justification for BOC 2534, Part-time Magistrate Judges' Miscellaneous Office Expenses, should include an itemized list of the office expenses for each magistrate judge. (The following section of this chapter contains detailed information regarding these items.) The budget requests are submitted to the Administrative Office for review by the Magistrate Judges Division to ensure they are within the limits allowed.

(b) Allotted Funds

In the event that a magistrate judge anticipates a shortage of funds as a result of an increase in workload, the judge should advise the clerk of court, and if funds are not available within the court's allotment, the clerk of court should contact the Magistrate Judges Division to request supplemental funding. Appeals of allotments and requests for supplemental funding should be made in compliance with budget allotment guidelines and procedures. The justification should explain the circumstances underlying the requirement. If additional monies are necessary for salaries and related employment expenses, the justification should include the hourly wage of each affected employee, duty title, and the number of hours worked annually.

§ 1320.20 Salary and Related Employment Expenses

§ 1320.20.10 Employees

Part-time magistrate judges may claim reimbursement for salary expenses actually and necessarily incurred for secretarial or clerical assistance rendered in connection with official magistrate judge duties. The amount of the reimbursement for salary expenses is limited to predetermined hourly rates of compensation for work actually performed and does not include gratuities, bonuses, parking fees, or any other payments supplemental to hourly rates of compensation. In addition to actual hours worked, reimbursement is authorized for holidays and annual and sick leave not to exceed federal employee entitlements. **See:** § 1320.20.40, § 1320.20.60, and § 1320.20.80. Expenses incurred for assistance which requires special training in the law, including paralegal or law clerk assistance, are not reimbursable.

§ 1320.20.20 Hourly Rate

The hourly rate of compensation claimed by a part-time magistrate judge for secretarial assistance may not exceed the rate equivalent to that paid an employee at grade JSP-10, Step 1. Reimbursement for a clerical assistant is limited to the hourly wage of a JSP-8, Step 1. (The maximum hourly rate is equal to the annual JSP salary divided by 2080.) Reimbursement may not be claimed for a rate of pay higher than that paid by the magistrate judge for non-government work. The salary should be consistent with the local pay scale and not in excess of the maximum rate established above. Reimbursement at an overtime rate, for work in excess of a full-time work-week (40 hours), is not authorized.

§ 1320.20.30 Hours Required

(a) Allowable Compensable Hours

A part-time magistrate judge's budget allotment for salary and related employment expenses of staff is calculated by determining the hourly cost of staff and the approximate number of staff support hours based upon the magistrate judge's workload. As a general rule, a part-time magistrate judge may claim up to two hours of staff support for every hour the magistrate judge devotes to official duties. Allowable staff support hours are based on both the hours reported by the magistrate judge on the JS-43, U.S. Magistrate Judge Monthly Report, or via Magistrate Judge Statistics Through Automated Records (MJSTAR) and the salary level of the part-time magistrate judge.

(b) Magistrate Judge Salary Levels and Staff Hours

The following table lists the range of allowable support hours based on the salary level of the magistrate judge.

§ 1320.20.30(b) Magistrate Judge Salary Levels and Staff Hours		
Magistrate Judge Salary Level	**Annual Compensable Staff Hours**	**Weekly Compensable Staff Hours**
1	2,080	40
2	1,872 – 2,080	36 – 40
3	1,4567 – 1,664	28 – 32
4	1,040 – 1,248	20 – 24
5	520 – 832	10 – 16
6	312 – 416	6 – 8
7	208	4
8	104	2

§ 1320.20.40 Number of Employees

Generally, part-time magistrate judges are supported by a single employee. In those cases where two persons split the time allocated to a single position, the combined hours and related employment expenses may not exceed those allowed for a single employee.

§ 1320.20.50 Holidays

(a) Part-time magistrate judges may claim reimbursement for staff support expenses on the following federal holidays if the secretary or clerical assistant would ordinarily work that day as part of their regular tour of duty, were it not for the holiday:

- New Year's Day: January 1
- Birthday of Martin Luther King, Jr.: 3rd Monday in January
- Presidents Day: 3rd Monday in February
- Memorial Day: last Monday in May
- Independence Day: July 4
- Labor Day: 1st Monday in September
- Columbus Day: 2nd Monday in October
- Veterans Day: November 11
- Thanksgiving Day: 4th Thursday in November
- Christmas Day: December 25

(b) Reimbursement may not exceed the number of hours that would ordinarily be worked by the employee on that day.

§ 1320.20.60 Annual Leave

(a) Full-Time Employees

Part-time magistrate judges may claim reimbursement for staff support expenses for reasonable periods of time that the magistrate judge has authorized annual leave for the employee. Annual leave is used for vacation, personal, emergency, and other purposes. Reimbursement for annual leave for secretaries or clerical assistants employed full-time (40 hours per week) may not exceed:

(1) 13 days (104 hours) per year for employees with less than 3 years of service as an employee of a part-time magistrate judge;

(2) 20 days (160 hours) per year for employees with 3 to 15 years of service as an employee of a part-time magistrate judge;

(3) 26 days (208 hours) per year for employees with 15 or more years of service as an employee of a part-time magistrate judge.

(b) Part-Time Employees

Reimbursement for annual leave for part-time employees (less than 40 hours per week) may not exceed:

(1) 1 hour for each 20 hours worked on official duties for employees with less than 3 years of service as an employee of a part-time magistrate judge;

(2) 1 hour for each 13 hours worked on official duties for employees with 3 to 15 years of service as an employee of a part-time magistrate judge;

(3) 1 hour for each 10 hours worked on official duties for employees with 15 or more years of service as an employee of a part-time magistrate judge.

§ 1320.20.70 Conditions

Years of service as an employee of a part-time magistrate judge apply only to those years the employer (the part-time magistrate judge) has served as a part-time magistrate judge. Additional reimbursement for temporary help during periods when the employee is on annual leave is not authorized. Unused annual leave may not be carried over to the following year, nor is a lump sum payment authorized for unused annual leave.

§ 1320.20.80 Sick Leave

(a) Reimbursement for Sick Leave

Part-time magistrate judges may claim reimbursement for staff support expenses for the period of time that the magistrate judge has authorized sick leave for the employee. Sick leave is used for employees physically incapacitated to perform their duties or receiving medical, dental, or optical examination or treatment or to provide care for a family member who is incapacitated by a medical or mental condition or attending to a family member receiving medical, dental, or optical treatment. Reimbursement for sick leave may not exceed one hour for each 20 hours worked.

(b) Reimbursement for Temporary Help Is Not Authorized

Additional reimbursement for temporary help during periods when the employee is on sick leave is not authorized. Unused sick leave may not

be carried over to the following year, nor is a lump sum payment authorized for unused sick leave.

§ 1320.20.90 Related Employment Expenses

A part-time magistrate judge will be reimbursed for actual expenses necessarily incurred on behalf of his or her secretary or clerical assistant. Such expenses may include payment for unemployment insurance, worker's compensation insurance, social security tax, state and/or local labor taxes if applicable, and basic health insurance only. Reimbursement for the employer's portion of health insurance is capped at **$4,961.84** annually for the employee-only plan for full-time employees. Reimbursement for health insurance for part-time employees is based on the percentage of time the employee devotes to the magistrate judge's official duties in relation to a 40-hour work week. For example, an employee who works a total of ten hours per week on magistrate judge-related duties works 25 percent of a 40-hour week. Twenty-five percent of **$4,961.84** is **$1,240.46**. The magistrate judge may be reimbursed up to **$1,240.46** for health insurance for an employee who devotes 25 percent of the work week to official magistrate judge duties.

§ 1320.30 Miscellaneous Office Expenses

§ 1320.30.10 Reimbursable expenses

A part-time magistrate judge may claim reimbursement for other expenses actually and necessarily incurred in the conduct of official duties. The amount claimed for such miscellaneous expenses for the fiscal year may not exceed 10 percent of the part-time magistrate judge's annual salary. If there are questions about the propriety of an expense, the Magistrate Judges Division should be contacted before the purchase is made.

§ 1320.30.20 Categories of Expenses

Magistrate judges may claim reimbursement for the following categories of expenses:

(a) Telephone

(1) Monthly Charges for Local Usage

A part-time magistrate judge may claim reimbursement for the portion of monthly telephone charges that relate to official duties. That portion should be the same percentage of time that the magistrate judge's support staff spends on official duties. For example, a part-time magistrate judge whose secretary works 50 percent of the time on official duties may claim reimbursement for

one-half of the cost of monthly telephone service. If the same magistrate judge has an office in a law firm and shares the cost of monthly telephone service with two other attorneys, the magistrate judge may claim reimbursement for one-half of his or her portion of the bill, or one-sixth of the total monthly cost of local service.

(2) Long-Distance Telephone Calls

A part-time magistrate judge may claim full reimbursement for long distance telephone calls made for official business.

(b) Consumable Office Supplies

(1) Some consumable office supplies, such as forms and letterhead stationery, are available from the office of the clerk of court. **See:** Judges Adminstrative Manual, Ch. 21, Sec. 2.

(2) Reimbursement may be claimed for other consumable office supplies such as pens, pencils, tape, rubber stamps, and staples, which have been purchased locally.

(c) Amortization of Office Equipment

(1) The cost of office equipment (personal computers, typewriters, photocopiers, answering machines, dictaphones) used in the conduct of official business may be amortized by reducing its original cost by its residual value after five years of service and prorating the difference over a five-year period. (Contact the local merchant where the equipment was purchased or the Procurement Management Division for assistance in determining residual value.) If the equipment is used for both official business and other matters, the amortization may be applied only to that portion of use related to official duties. Use the same percentage of time that the magistrate judge's support staff spends on official duties. For an example of computing percentage if equipment costs are shared, **see:** § 1320.30.20(a)(1).

(2) Equipment that has been purchased prior to appointment as a part-time magistrate judge may be amortized only for that portion of the five-year period subsequent to the purchase for which it is used in the conduct of official business. For example, with respect to equipment purchased two years before appointment as a part-time magistrate judge, only a part of the equipment cost may be reimbursed. The difference between the original cost and the

residual value after five years may be amortized for three years. The three-year period is the only portion of the allowable amortization period that remains available.

(3) Equipment may not be amortized and claimed for reimbursement if it has been owned by the part-time magistrate judge for more than five years.

(d) Other Expenses

(1) Leasing Office Equipment

(A) The expense incurred by a part-time magistrate judge pursuant to a rental/lease contract is reimbursable to the extent that the equipment is used for official government business.

(B) The expense incurred by a part-time magistrate judge pursuant to a rental/lease contract with the option to buy equipment will be reimbursed to the extent such equipment is used for official business. Such reimbursement will be limited to an annual ceiling of one-fifth of the difference between the actual cost of the equipment and the residual value of the equipment after five years. Reimbursement for interest charges which attach to the purchase of office equipment pursuant to an installment contract or rent/lease with the option to buy contract will not be allowed.

(C) The extent that the equipment is used for official government business should not exceed the percentage of time that the magistrate judge's support staff spends on official duties. For an example of computing percentage if leased equipment costs are shared, **see:** § 1320.30.20(a)(1).

(2) Photocopies

A part-time magistrate judge may claim reimbursement for the actual cost of photocopies made in connection with official duties. If the magistrate judge has his/her own copy machine, the cost per copy may not exceed $0.07. This includes the cost of paper. If a magistrate judge claims reimbursement for photocopying expenses on a per copy basis, he or she may not claim reimbursement for amortization of a photocopier, repairs of a photocopier, or costs for a maintenance agreement.

(3) Maintenance Agreements

Reimbursement may be claimed for that portion of the cost of the maintenance agreement that relates to official duties.

(4) Office Equipment Repairs

(A) Government-Owned Equipment

Generally, the only equipment that will be purchased for part-time magistrate judges is courtroom recording equipment. Contact the clerk of court if the equipment is in need of repair.

(B) Privately Owned Equipment

A portion of the expense incurred by a part-time magistrate judge for repair of privately-owned office equipment will be reimbursed based upon the percentage of time the equipment is used for official business.

(5) Legal Research Resources

Legal research resources are available in court libraries and shared collections. Access to online legal research services is available in all chambers. **See:** Guide, Vol 21, Ch 3 (Legal Research Resources Available to Judges).

§ 1320.40 Expenses Not Reimbursable

§ 1320.40.10 Furniture and Furnishings

No reimbursement is permitted for any portion of the expense incurred for procuring or leasing furniture. Reimbursement is also disallowed for lamps, carpeting, and file cabinets.

§ 1320.40.20 Leasing or Procurement of Office Space

Under 28 U.S.C. § 635(b), a part-time magistrate judge may not be reimbursed for any portion of the expense incurred for the leasing or procurement of office space.

§ 1320.40.30 Robes

The cost of procuring, cleaning, and repairing robes is considered a personal expense and is not subject to reimbursement.

§ 1320.40.40 Courtroom Recording Equipment

A part-time magistrate judge may obtain courtroom recording equipment by submitting a request through the clerk of court to the Administrative Office, District Court Administration Division.

§ 1320.40.50 Transcript Fees

Fees for magistrate judge-ordered transcripts will be paid directly to the court reporter or the court reporting firm. To effect payment, a part-time magistrate judge should complete Form CJA 24 voucher for criminal cases, or Form SF 1034 for civil and non-CJA cases. The appropriate form should be submitted to the office of the clerk of court.

§ 1320.40.60 Computer-Assisted Legal Research (CALR) Service

Part-time magistrate judges who require CALR access in the performance of their official duties, and who have their own personal computers, may apply for the service through their circuit librarians. The procurement of hardware (personal computers, modems, etc.) to enable participation in this program is addressed in § 1320.30.20(d)(1).

§ 1320.40.70 Postage Costs

Postage expenses are charged to a separate budget object code. Part-time magistrate judges should contact their clerk of court before purchasing postage stamps for official mail.

§ 1320.50 Reimbursement Process

§ 1320.50.10 Reimbursement Voucher

All claims will be paid by the clerk of court of the magistrate judge's district. Claims should be submitted on an Reimbursement Voucher of Part-Time U.S. Magistrate Judge (Form AO 206), together with supporting receipts, to the clerk of court.

§ 1320.50.20 Supporting Receipts		
(a)	Salaries and Social Security (F.I.C.A.) Taxes	No receipts are necessary for salary or Social Security (F.I.C.A.) tax payments.
(b)	Unemployment Compensation Taxes	Submit a copy of the appropriate state and federal tax reports whenever taxes are paid.
(c)	Health Insurance	With the initial voucher, a statement should be included identifying the plan and stating the amounts paid. Supplementary statements should be submitted each time a change in the fee occurs.
(d)	Telephone Service	The voucher should be supported by the original telephone bill(s) with a statement certifying the amount charged to official business.
(e)	Amortization	Upon submission of the original claim, include a statement itemizing the equipment being amortized and the costs of each. Supplementary statements should be submitted each time a change occurs (e.g., with the purchase of new equipment).
(f)	Other Expenses	Other miscellaneous expenses claimed should be supported whenever possible by an original receipt or invoice. Include a statement explaining what portion of the cost is chargeable to official government business.

§ 1320.50.30 Voucher Submission

Vouchers should normally be submitted to the clerk of court within 30 days after the close of the month in which the expenses accrue. Small bills, however, may be accumulated and the voucher submitted quarterly to save clerical effort. All vouchers for reimbursement must be submitted at least quarterly. Claims not submitted within the prescribed periods will be considered waived unless there is a good reason for delay.

§ 1320.50.40 Post-Audit Procedures

All vouchers paid by clerks of court are subject to limitations prescribed by the Director of the Administrative Office of the United States Courts in compliance with 28 U.S.C. § 635(b) and subject to post-audit procedures. Accordingly, from time-to-time it may become necessary for the Office of Audit of the Administrative Office to seek a refund or make an adjustment in a claim already processed by the clerk.