

Helpful Tips to Ensure Compliance With Billing Guidelines

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A client should regularly review the bills of counsel to determine whether attorneys and other billers have complied with generally accepted billing practices and established billing guidelines. The regular review of bills often results in the identification of questions and possible deductions for invoice entries that fail to comply with guidelines or industry norms. Certain types of activity included in the bills, as well as the format of billing entries, can give rise to concerns. Categories of entries a client should review include: block billing, vague and ambiguous entries, administrative and clerical tasks, excessive conferencing and unnecessary travel.

The practice of pervasive “block billing,” also known as “bulk billing” or “aggregate billing,” has been discouraged by courts and prohibited by most billing guidelines. “Block billing” is the practice of lumping two or more tasks into a single billing entry. Time is not allocated between the tasks and a single total amount of time is stated for all tasks contained in the blocks. Where this billing style is utilized, the client may have difficulty in determining whether the time spent on each task was reasonable.

An attorney’s or paralegal’s time entries should also be recorded in sufficient detail so that the work performed is clearly described and precisely communicated in a meaningful way. Courts require such precision in evaluating the reasonableness of fees billed by counsel. Accordingly, clients often take an estimated percentage deduction for “vague” entries, where through no fault of its own, a client is unable to determine the nature and/or scope of services claimed. Entries such as “Work on documents” “Review documents” “Telephone conference” and “Research” should not be paid without more of an explanation. Where attorneys report various communications, it is appropriate to require the names of both parties involved and the subject of the exchange. Thus, a client is within its rights to question reporting “Call with Joe Smith” or “Meeting re: depositions.”

Billing by attorneys and paralegals for the performance of “clerical” or “secretarial” tasks is also inappropriate without prior approval. These activities are generally considered part of a law firm’s overhead expenses, which are factored into the firm’s hourly rates for professional services. Clerical activities are those that do not require legal acumen. Secretaries, file clerks, messengers and other nonprofessional staff can perform these tasks effectively. Similarly, computer-related charges should not appear on an invoice for legal services without prior approval from the client.

In addition, the client should review questionable staffing decisions that may result in unnecessary fees and costs. “Multiple attendance,” means attendance at events by several attorneys where one could reasonably get the job done. It may be appropriate to take deductions where a firm sends more than one partner to a routine motion hearing without prior approval. A related category is “unnecessary travel.” An attorney should not travel (at a client’s expense) if he or she could perform the same work via email, fax machine, and/or teleconferencing.

A close review of bills should also include the fronted costs and expenses for which the law firms seek reimbursement. At a minimum, attorneys should always provide backup documentation for the underlying invoices to support the costs they incur. As with attorneys’

fees, the test for evaluating disbursements is one of reasonableness. The expenditure must be necessary and the amount reasonable. General overhead expenses are not appropriate disbursements because the law firm should factor them into the attorneys' hourly billing rates.

A monthly bill review should also look at quality control items that might include unapproved billing rate increases, billing entries for incorrect matters, and math errors. All of the foregoing are typically helpful in reducing client costs as well as increasing attorney accountability. Before starting the analysis however, the reviewer must determine the criteria to be utilized in analyzing the invoices and strive for consistency. We also recommend meeting with the law firm regularly to ensure the law firm billers understand the guidelines and the client's expectations. The most favorable result is always to educate the parties and to foster a trusting, transparent relationship between the attorney and client.