



POINTS OF INTEREST

JAC'S NEWSLETTER FOR COURT-APPOINTED
 AND INDIGENT FOR COSTS ATTORNEYS AND
 DUE PROCESS VENDORS

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A Word From JAC's Executive Director

Greetings from the Justice Administrative Commission (JAC)! I hope you find this latest edition of Points of Interest (JAC's Newsletter for Court-Appointed and Indigent for Costs Attorneys and Due Process Vendors) helpful and informative. Included is an update on the implementation of Phase IV of the Online Billing Submission System, information regarding the changes to the 2017-2018 contracts, and other pertinent information. If you are interested in providing feedback, there is a link to a short survey on the last page. As always, please let us know how we can serve you better.



Rip Colvin
JAC Executive
Director

Changes to Fiscal Year 2017-2018 Contracts

Several provisions of the JAC contracts for attorneys and due process vendors have been revised for Fiscal Year 2017 – 2018. As in prior years, these contracts run with the state fiscal year and will terminate on June 30, 2018. The contracts that have been amended are the Contract for Payments Related to Attorney Services Provided to Indigent Defendants (Registry Contract); Contract for Payments Related to Attorney Services Provided to Capital Collateral Defendants (CCR Contract); Attorney Contract for Payments Related to Due Process Services Provided to Persons Who Are Indigent for Costs (IFC Contract); and the Type 1, Type 2, and Non-Standard Contracts for Payments Related to Due Process Services Provided to Indigent Defendants (Due Process Contracts).

(Continued on page 2)

Inside this issue:	
A Word from JAC's Executive Director	1
Changes to Fiscal Year 2017-2018 Contracts	1-3
Phase IV of Online Billing Submission	1, 3-5
Updates to JAC Public Website	5
Service of Pleadings on JAC	6
Appointment to Resentencing Hearings	6
Content of Orders for Due Process Services	7-8
Administrative/Non-billable Activities in Attorney Hourly Billings	9
Avoiding Block Billing for Due Process Vendors	10
JAC in Brief	10

Phase IV of Online Billing Submission

JAC recently implemented Phase IV of Online Billing Submission in **My JAC** (JAC's secure website). Many improvements and additions have been made to facilitate online billing for attorneys and due process vendors.

The main change implemented through Phase IV relates to billing submissions by due process vendors. This update allows due process vendors to complete and submit their billings online by generating an electronic JAC Invoice/Voucher Cover. During the billing process, the due process vendor will provide the information necessary to complete the JAC Invoice/Voucher Cover. The due process vendor may need to indicate the type of services being billed particularly when the vendor is seeking travel expenses or miscellaneous costs. For example, when submitting an invoice that includes miscellaneous costs, a due process vendor must click a button in the section indicating that costs are included. This will activate a line item allowing entry of the costs. Without clicking this button, costs cannot be billed.

(Continued on page 3)

Changes to Fiscal Year 2017-2018 Contracts (Continued from Page 1)

Specifically, the substantive amendments to the contracts include the following:

1. **Use of Federal Employer Identification Number (FEIN):** Due to identity theft concerns over the use of social security numbers (SSN) as tax identification numbers, the contracts include language to encourage attorneys and vendors to use a FEIN. If attorneys or vendors elect to use a SSN, then the attorney or vendor assumes the risk associated including potential interception, misuse, and identity theft. (See, Preliminary Paragraphs of Registry Contract; CCR Contract; IFC Contract; and Due Process Contracts).
2. **Unique Invoice Number:** This revision requires attorneys and vendors to use a unique invoice number for each billing. This will make it easier to identify billings in the Florida Accounting Information Resource (FLAIR) system and reduce Department of Financial Services (DFS) inquiries regarding possible duplicate payments because billings from the same attorney or vendor share an invoice number. (See, Registry and CCR Contracts: Paragraph II(8); IFC Contract II(10); and Due Process Contracts: Paragraph II(20)).
3. **Requirement for attorneys to approve due process vendor billings:** This provision requires attorneys to approve or reject due process vendor billings submitted through My JAC (JAC's secure website) within 10 business days. With JAC's implementation of Phase IV of its Online Billing System, due process vendors can complete their billings online. The system then notifies the attorney that a due process vendor bill awaits attorney review, approval or rejection, before it can be processed by JAC. This language facilitates this process by mandating that attorneys review, and approve or reject a billing in a timely fashion. (See, Registry and CCR Contracts: Paragraphs II(8); and IFC Contract: Paragraphs II(10)).
4. **Procurement of services from a due process vendor with a relationship with the procuring attorney:** Because of concerns that arose this past year, this revision strengthens the provision related to procurement of services from due process vendors. The first change clarifies a provision in the attorney contracts which prohibits an attorney from procuring services from a vendor in which the attorney and vendor share a financial interest such as joint ownership of property. The second change adds a provision to the vendor contracts prohibiting a vendor from providing anything of value to an attorney beyond the scope of the JAC contract as consideration for the attorney retaining the vendor. Both of the provisions are intended to avoid potential conflicts of interest and the appearance of impropriety. (See, Registry Contract: Paragraph IV(24); CCR Contract: Paragraph IV(23); IFC Contract: Paragraph III(24); and Due Process Contracts: Paragraph II(16)).
5. **Requirement that email addresses registered with JAC by attorneys belong to the attorney or persons directly affiliated with the attorney's firm:** Some attorneys have sought to add the email address of a due process vendor (investigator or court reporters) as a registered email address for the attorney. This provision limits attorneys to registering the attorney's email address, any email address of the attorney's firm or practice (legal entity), or persons directly affiliated with the attorney's firm or practice. (See, Registry Contract: Paragraph XIII(1); CCR Contract: Paragraph XIV(1); and IFC Contract: Paragraph IX(1)).
6. **Notice of termination via email:** This revision requires JAC to send a notice of contract termination to the email address(es) designated in the contract, rather than by U.S. Mail. (See, Registry Contract: Paragraph XIV(4); CCR Contract: Paragraph XV(4); IFC Contract: Paragraph X(2); and Due Process Contracts: Paragraph IX(4)).
7. **Attorney and Investigator Travel:** These revisions clarify the allowance for travel expenses for attorneys and investigators. Absent exceptional circumstances, attorneys will not be eligible for travel compensation when they choose to accept court-appointed cases for circuit beyond the circuit where their office is located. Typically, exceptional circumstances occur where the local bar is inadequate in number, such as required in extensive RICO cases, or lacks a specific expertise, such as capital death. For investigators, absent a showing that no local investigators are available to accept appointment to a case, an investigator would waive any right to travel time or expenses. This language is intended to prevent attorneys and investigators who make a business decision to provide services outside their home circuit from seeking reimbursement for travel time and expenses resulting from that business decision. (See, Registry Contract: XVIII(15); and Due Process Contracts: Paragraph II(12)).

Changes to Fiscal Year 2017-2018 Contracts (Continued from Page 2)

As a reminder, the contracts require attorney and due process vendors to submit their billings through JAC's Online Billing Submission System. Insofar as due process vendors are concerned, JAC has begun sending reminders regarding this requirement. Now that Phase IV of the Online Billing Submission System has been implemented, JAC may no longer accept mailed billings from due process vendors effective July 1, 2017. Absent exceptional circumstances, any mailed billing may be summarily rejected after July 1, 2017.

In anticipation of the 2017-2018 contract season, attorneys and due process vendors should verify their user name and password to access **My JAC**. If an attorney or due process vendor has forgotten a user name or password, please go to **My JAC**. Click on "Forgot your user name or password?" Use the drop down to select "Attorney" or "Vendor" as appropriate and enter accurate search criteria. Click on "Get User Name and Password". The password will be sent to the email address registered with JAC. If the attorney or due process vendor no longer has access to the email registered with JAC, please inquire at contracts@justiceadmin.org for assistance. (Remember that user names and passwords are case sensitive. Also, the attorneys or due process vendors should check their spam or bulk mail folders if an anticipated email is not received.)

The Online Contract Submission System will be down starting June 1, 2017, in order to make the transition to the new contracts. JAC anticipates the new contracts will be available early in the week of June 5th, 2017. A notice will be posted on JAC's public website when the Online Contract Submission System is back online.

Phase IV of Online Billing Submission (Continued from Page 1)

For travel expenses, due process vendors still need to get the travel voucher signed by the attorney prior to completing the online billing process. When submitting travel expenses on the travel voucher, both the traveler and supervising attorney must sign, provide their title, and date the signature blocks. Once the travel voucher is signed it should be scanned as one file with the supporting documentation (DOT mileage map, hotel or auto rental receipts indicating a zero balance) and uploaded into the appropriately named textbox field.

A scanned JAC Invoice/Voucher signed by the vendor and the attorney is no longer necessary. Once a due process vendor submits an electronic JAC Invoice/Voucher Cover, the attorney is notified by email that the billing is pending attorney review. Also, when an attorney logs onto **My JAC**, the attorney is notified if there are any due process vendor billings pending attorney review.

For a due process vendor to submit a billing, a case must be opened in JAC's system before a due process vendor will be able to access the case in **My JAC**. If a due process vendor cannot find a case in the system using accurate search criteria, the attorney has likely not submitted the case opening documents necessary for JAC to open the case. The due process vendor will need to contact the attorney to request that the attorney open the case by submitting the case opening documents, typically through JAC's Online Case Submission System in **My JAC**.

After the due process vendor has submitted a billing, the attorney will log into **My JAC** and review the billing and supporting documentation and then either approve or reject the billing. If the attorney approves the billing, it is then submitted for review by JAC staff. If the attorney rejects the billing, the vendor will be notified of the reason for the rejection via email. The vendor will need to contact the attorney to resolve the issue. The JAC Help Desk cannot assist in this regard.

Once an attorney has rejected a billing, it is closed in JAC's system. Therefore, once the due process vendor resolves the issue with the attorney, the vendor will need to submit a new billing.

This update should streamline the billing process by allowing the entire billing process to occur electronically. Rather than obtain a physical attorney signature, the attorney will electronically sign the JAC Invoice/Voucher Cover when the attorney approves the billing. JAC's attorney contracts have been updated to require attorneys to review, approve or reject billings submitted through **My JAC** within 10 business days.

During the initial transition period, due process vendors will continue to have the option to submit scanned JAC

Phase IV of Online Billing Submission (Continued from Page 3)

Invoice/Voucher Covers signed by the attorney instead of using the new system. Once the transition period is complete, use of the new system will be mandatory in most instances. There are two main instances where scanned JAC Invoice/Vouchers will continue to be used. First, for cases involving *pro se* defendants because the *pro se* defendant will have to sign a physical document to certify the billing. Second, for cases involving appellate transcripts when the JAC Invoice/Voucher Cover is signed by an employee of the clerk's office instead of the attorney. Other than those two exceptions, due process vendor billings will need to be submitted using the new system of electronic JAC Invoice/Voucher Covers.

Several other improvements were also implemented through Phase IV. Attorney billing has been enhanced with new layout updates for flat fee and hourly billing that make navigating the steps to submission easier. A field for Capital Collateral educational expense reimbursement has been added.

Throughout the Online Billing Submission System, informative tips and descriptions have been updated. Also, JAC has posted video tutorials to assist attorneys and vendors in understanding and using the interface. Please make sure to use appropriate fields when uploading documents. When a document is uploaded under an incorrect field/document category, the document may be misfiled which can delay payment.

The interface for uploading supporting documentation now shows each document's file size to ensure transmission. The maximum file size for a billing submission is 20 MB. Scans of orders and other documents must be in .pdf or .tif format. Documents should be scanned in black and white with a resolution no greater than 300 DPI in order to minimize file size.

Invoices can be amended easily online using the "Search invoice by tracking number."

For due process vendors, when amending an invoice submitted via **My JAC**, if the attorney has already approved the bill, the due process vendor cannot alter the information previously entered (such as the amount of the billing) and any document uploaded to amend the billing packet will supplement a previous submission under the same field/document category.

If the attorney has not yet approved the invoice, the due process vendor may overwrite information previously entered (such as changing the amount billed) and documents uploaded will replace any document previously submitted under the same field/document category. The document original submitted will be supplanted by the new document of the same field/document category.

As part of JAC's efforts to improve the billing process, JAC has implemented a Final Billing Checkbox for Investigator Billing as part of the Online Billing Submission System. Use of this check box is necessary for billings that are under \$500. Starting with the 2016-2017 fiscal year contract, an investigator shall only bill when more than \$500 of unpaid services have accrued on a case or the investigator has concluded his or her services in that case. When the final billing checkbox is selected, the investigator will be certifying the completion of all investigative services and that no further billings are anticipated for that case.

A new search portal has been added to both attorney and vendor logins to **My JAC** to consolidate different types of searches for invoices and cases.

Search options on the attorney search portal include:

- **Search Attorney or Due Process Invoice by Tracking Number for invoices received by JAC.** This option is best if an invoice has been recently submitted and the attorney would like to verify receipt regardless of whether the invoice has been reviewed by an auditor.
- **Search for Attorney or Due Process Invoices being audited by JAC.** This option provides the status of invoices that have been (or are being) reviewed by an auditor. The attorney may also pull a list of invoices audited in the last 30 days using this option.
- **Search for Cases.** This option allows an attorney to identify cases currently open in JAC's database.

Phase IV of Online Billing Submission (Continued from Page 4)

- **Find Letters.** This option allows an attorney to pull notices of audit deficiency and letters sent by JAC in response to a billing. The notices and letters would also have been emailed to the attorney.

Search options on the due process vendor search portal include:

- **Search Invoice Status by Tracking Number for invoices received by JAC.** This option is best if an invoice has been recently submitted and the due process vendor would like to verify receipt regardless of whether the invoice has been reviewed by an auditor.
- **Search for Due Process Invoices being audited by JAC.** This option provides the status of invoices that have been (or are being) reviewed by an auditor. The due process vendor may also pull a list of invoices audited in the last 30 days using this option.
- **Due Process Online Voucher/Invoice Status Reports.** This option allows a due process vendor to pull lists of invoices submitted electronically which are pending private attorney review, invoices rejected by private attorneys, and invoices approved by private attorneys which are pending JAC audit.
- **Find Letters.** This option allows a due process vendor to pull notices of audit deficiency and letters sent by JAC in response to a billing. The notices and letters would also have been emailed to the attorney and due process vendor.

Although due process vendors do not have a global case search option, due process vendors are able to search for cases open in JAC's database during billing submission.

Explanation of certain statuses:

- **Waiting on Response from Vendor** means there is an audit deficiency that will need to be cured.
- **Return to Vendor/Attorney** means the invoice will need to be resubmitted per the instruction in the notice. Please provide a new invoice number. The system will not accept a duplicate.
- **Approved for Payment** means JAC has sent the payment to DFS for payment. If there is a warrant number assigned, DFS has made payment. An attorney or vendor may obtain additional information concerning payment through DFS's Vendor Payment History page: <http://flair.dbf.state.fl.us/dispub2/cvnhphst.htm>.

JAC hopes that attorneys and vendors find the improvements implemented in Phase IV of Online Billing Submission to be useful. As always, JAC appreciates any feedback on Online Billing Submission or other aspects of JAC.

Updates to JAC Public Website

JAC recently implemented a major update to its website to improve accessibility. JAC's IT section created a responsive web layout that allows content to be displayed better on tablets and mobile devices. The website was updated to be compatible with the current standard, HTML5. The website should be viewable in most browsers. If there are any difficulties in viewing the website, please make sure that the browser has been updated to its latest version.

JAC also added new content and sections to the website to provide additional information. JAC added new sections intended for use by due process vendors such as court reporters, investigators, and experts. These sections contain checklists, guides, billing forms, rates, and other content specifically intended for use by specific due process vendors. Similarly, JAC created a Judicial Information section containing content intended for use by judges, law clerks, and other judicial staff.

JAC also added a new Model Motions and Orders section. The section contains various draft motions and orders for use by attorneys. Please be aware that these documents are provided as a basic model to assist attorneys in drafting motions and proposed orders for use in their court-appointed and indigent for costs cases. It is the attorney's responsibility to ensure that the filed version comports with any local requirements.

Service of Pleadings on JAC

With one limited exception, service of motions, orders, and other legal pleadings must be by the attorney or other persons affiliated with attorney's law firm. JAC has designated pleadings@justiceadmin.org, as the email address for service of motions, orders, and other legal pleadings. JAC legal staff has noted that some investigators or other due process vendors have been serving JAC with legal pleadings such as motions to declare the defendant indigent for costs or motions to incur costs for an investigator. Per the terms of the current contracts, this practice must cease. Other than providing an order authorizing due process services (typically as part of a billing submission or in response to an audit deficiency), service of all legal pleadings must be by the attorney. An investigator or other due process vendor is not allowed to serve motions on behalf of an attorney.

Although JAC accepts service through the E-portal, JAC prefers that attorneys forward a copy of the service email to JAC rather than add JAC to the service list for two reasons. First, when JAC is added to the service list, this results in JAC being served with various pleadings irrelevant to JAC such as case-related motions, sentencing documents, and discovery. Although JAC is not a primary party to these cases, many persons send documents to everyone on the service list without distinction or reference to the service list on the pleading. Second, JAC would prefer to receive a copy of any proposed order along with the motion. As it currently stands, the E-portal does not allow for service of proposed orders. When JAC receives a proposed order along with a motion, JAC is in a better position to address potential deficiencies that could result in a delay in payment or reimbursement.

Appointment to Resentencing Hearings

With recent appellate decisions, there are likely to be appointments for resentencing of defendants for many reasons particularly in capital death and juvenile life sentencing cases. In some instances, the original attorney may be reappointed and, in others, a new attorney may be appointed.

If an attorney is appointed to a resentencing hearing for a case the attorney handled at original sentencing, the attorney will need to open the case in the JAC Online Case Submission System as a "New Court Appointment." Because a final disposition terminates the prior appointment, a new order of appointment is required for a resentencing proceeding. In any case, the order will need to contain the appropriate findings of conflict in relation to the Offices of the Public Defender and Criminal Conflict and Civil Regional Counsel. The original finding of conflict may no longer apply particularly for older cases. For the charging document, the attorney will need to provide the initial charging document or the sentencing documents as well as the order or opinion granting a resentencing.

For billing purposes, the charge will be based upon the highest charge still pending at the time of appointment. Typically, this will be the highest charge for which the defendant was convicted. However, if the resentencing is limited to particular charges, the highest charge for resentencing purposes will determine the applicable charge for billing purposes. For example, if the matter is remanded for a resentencing as to a second degree felony, the applicable charge for billing purposes will be the second degree felony even if the original charging document contained higher charges. The dispositional document will be the new judgment and sentence entered following resentencing.

For resentencing hearings involving a defendant who received a life sentence (or life sentence equivalent) when the defendant was a juvenile at the time of the offense, the charge for billing purposes will be based upon the highest charge in the sentencing documents. These cases are not considered postconviction cases for billing purposes. Generally, the applicable charge will range from capital first degree murder (death penalty waived) to a felony punishable by life. For purposes of hourly billing, the rate for these cases cannot exceed \$75 per hour, even if involving a charge of first degree murder, because these cases are not death penalty eligible.

Depending on the reason for the resentencing, JAC would either pay the flat fee or issue a full performance letter. For death penalty cases involving a remand for a new penalty phase, JAC anticipates that a flat fee billing for such cases will be paid without objection. For similar reasons, JAC also anticipates that a flat fee billing in juvenile life sentencing cases will be paid without objection. JAC acknowledges that many of these cases will involve billings for extraordinary compensation. For other cases, a full performance letter is likely to be issued since the scope of the appointment is limited to a resentencing. In most instances, JAC will not request a hearing for such requests. Once the court approves an appropriate amount (up to the full flat fee), JAC will then process the billing for payment.

Content of Orders for Due Process Services

In preparing proposed orders based upon motions for due process services, certain language is necessary for payment purposes. In the absence of this language, payment is often delayed to due process providers because the attorney needs to obtain an amended order. JAC has posted on its website model motions and orders containing the necessary language for payment purposes. The following information may be helpful in preparing proposed orders authorizing due process costs.

Court Reporter Services

For deposition appearance fees, JAC may pay appearance fees in court-appointed and indigent for costs cases without prior court authorization as long as the rates billed are consistent with the rates established by law. For instance, where the rates will exceed the rates established by law, such as out-of-state depositions, the order needs to reflect the rates authorized for any appearance fees. For transcripts, the order needs to provide that preparation of the transcript is necessary for the defense of the case. For depositions, the order needs to provide the name of each witness and the date of deposition. For hearings, the order needs to provide the type of hearing and the date of that hearing. For other transcripts, the order needs to provide sufficient information to identify the item to be transcribed. For example, the date of the recording and the name of the witness and/or the type of recording (such as 911 calls or jail phone calls). For appellate transcripts, the designation of the record filed with the clerk may be utilized in lieu of a court order authorizing transcripts.

A generic order authorizing transcription does not suffice for payment purposes. Similarly, a motion simply granting a motion for transcripts without listing the transcripts in the order itself does not suffice. The order needs to indicate with specificity the transcripts authorized without reference to the motion to incur costs for transcripts or some other document beyond the scope of the order. Also, an estimated amount for the costs of transcription is not necessary. Because any transcripts prepared at state expense must comport with the rules of judicial administration, the number of pages is a largely fixed amount based upon the length of the transcript.

For expedited transcripts, the order needs to reflect an authorization for expedited rates. A request for expedited rates, including the reason expedited rates are necessary, must be set forth in the motion. A general authorization for expedited rates only allows for 5-day expedited rates. Overnight rates require a specific authorization in the order. Please be aware that there is no elevated rate for transcription of recordings (other than depositions or hearings) even when provided on an expedited basis.

Investigator Services

Generally, the order only needs to contain the amount authorized (cap) for the investigator. If seeking additional investigative fees, it is helpful for the order to include both the additional amount authorized and the total amount authorized. Also, an order authorizing additional investigative fees should clearly indicate it is authorizing additional fees. In the absence of such language, an order may be viewed as duplicative of a prior order authorizing the same amount.

If the investigator is going to incur costs to obtain documents or other case-related materials, language addressing a separate cap for that purpose is helpful. For example, an order could authorize \$1,500 for investigative services and \$500 to obtain case-related documents and materials. For out-of-state travel, the order should reflect the location and anticipated length of travel.

Private Process Server Services

Generally, service of process should be through the sheriff unless the sheriff is unable or unavailable to provide service of process. The sheriff must be used to serve in-county law enforcement. The need for an order for a private process server depends on whether there is an established rate for the circuit. For those circuits with an established rate, an order is not required for regular service on witnesses other than in-county law enforcement. For those circuits without a rate, an order is required setting the rate for service of process, typically \$20 to \$25 per service or attempt.

Content of Orders for Due Process Services (Continued from Page 7)

- The following circuits have an established rate of \$20: 5th, 9th, 11th and 13th;
- The following circuits have an established rate of \$25: 2nd, 4th, 10th and 18th;
- All other circuits require an order authorizing private process servers including the rate authorized for service of process.

An order is always required for rush service. The order will need to reflect the reason and the rate authorized for rush service. Similarly, for out-of-state service of process, the order will need to reflect the rate authorized for out-of-state service.

Mitigation Specialist Services in Capital Death Cases

For billing purposes, the phrase mitigation specialist applies only to capital death cases. The phrase mitigation specialist should not be used in other contexts, such as mental health experts doing an evaluation for mitigation purposes, because it causes confusion. For a mitigation specialist order, the order should reflect the hourly rate (not to exceed \$75 per hour) and the amount authorized (cap) for the mitigation specialist. As with investigators, if the mitigation specialist is going to incur costs to obtain documents or other case-related materials, language addressing a separate cap for that purpose is helpful. For out-of-state travel, the order should reflect the location and anticipated length of travel.

Experts

Any order authorizing expert services should contain the type of expert (including the expert's name when a specific expert is being appointed), the services to be provided, the compensation rates for those services, and a maximum amount authorized (cap) for expert services. If the services are to be performed within the rates established by law, the lack of a rate will not prevent payment. However, if the rates exceed the rates established by law or there is no rate established for a service, the lack of a rate in the order will delay payment. Absent an order expressly authorizing a rate in excess of the established rates, JAC will only pay for expert services at the established rates.

In determining the amount to request, the attorney should obtain a good faith estimate from the expert regarding how much will be needed to perform the services in the case. The maximum amount authorized for expert services should be based upon this amount. It is appropriate to seek an amount above the initial estimate (such as 25 percent above the estimate) to allow for flexibility and potential testimony.

Generally, experts are compensated on an hourly basis. In limited circumstances, a court may authorize compensation in a different manner such as a flat fee for a competency evaluation; a set rate for a type of DNA test; or a fee for medical procedures like MRIs, CAT scans, or PET scans. In those situations, the order must indicate the set rate or fee for those services as well as a maximum amount authorized when multiple tests will be completed. For example, an order authorizing DNA testing would need to include the amounts authorized for the various types of tests as well as a total amount authorized for DNA testing.

If the expert is out-of-state, the order must contain specific findings regarding the unavailability of a qualified in-state expert. The use of out-of-state experts is not authorized when there are competent experts available within Florida.

Exhaustion of Amount Authorized

A common reason for delay in payment is when a vendor submits a billing for more than the amount authorized by court order. If an investigator, mitigation specialist or expert anticipates exhausting the amount previously authorized by court order, the attorney should file a motion to authorize additional services prior to exhausting the amount authorized.

It is important that the attorney inform the vendor of the amount authorized for the case. Before the amount is exhausted, the due process vendor is responsible for notifying the attorney if additional services are required. The attorney can then file the appropriate motion with the trial court and obtain an order authorizing additional amounts before the vendor submits a billing which exceeds the amount previously authorized by court order.

Administrative/Non-billable Activities in Attorney Hourly Billings

Pursuant to an attorney's contract with JAC, when seeking compensation on an hourly basis, administrative activities as defined by the contract do not constitute services for which the attorney may seek compensation. Even if these activities require some attorney time, they are not considered billable time under the terms of the JAC contract.

Per the terms of the JAC contract and JAC Policies and Procedures, time spent on administrative activities include, but are not limited to, the following:

- Services performed by support staff, paralegals, law clerks, and secretaries.
- Time related to or in furtherance of billing, or time related to defending a disputed bill.
- Reviewing invoices of due process providers.
- Identifying and procuring services of a due process vendor, including reviewing qualifications of vendors.
- Preparing and reviewing subpoenas.
- Reviewing returns of service.
- Leaving messages for return calls.
- Photocopying/printing legal research and/or other documents.
- Preparing/reviewing routine emails of an administrative nature.
- Obtaining, preparing, and purchasing clothing for the client.
- Copying/delivering documents or procuring materials either for the attorney or client.
- Preparing motions for attorney's fees and costs, due process costs, and/or related expenses, including time spent in hearings on said motions.
- Activities not reasonably related to the merits of the underlying case including preparing routine documents such as notices of unavailability, calendaring hearings, setting depositions, and providing instructions to staff.
- Preparing notices of hearings or notices of depositions.
- Reviewing notices of hearings or notices of depositions.
- Waiting/obtaining documents from the clerk of court.
- Interoffice communication, such as communication with paralegals.
- Office or administrative functions, including secretarial and administrative work performed by any person, including the attorney.
- Defending against a bar complaint, 3.850 motion, or other grievance filed by the client.
- Any other activity not reasonably related to the defense of the case.
- Correspondence with JAC and conversations with JAC personnel.

Another area of concern is time spent traveling. Generally, ordinary travel time associated with a case is not reimbursable even when a case is billed on an hourly basis. For example, time spent commuting to the courthouse is not reimbursable travel time. Extraordinary travel time may be reimbursable such as out-of-circuit and out-of-state travel to take depositions or interview witnesses. In those instances, if the travel time is during normal business hours such that it reduces the attorney's ability to work on other cases, travel time may be reimbursable upon court approval.



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Avoiding Block Billing for Due Process Vendors

A common problem in hourly billings from investigators, mitigation specialists, and experts is block billing. When submitting the detailed hourly billing, the services should be billed in hours and tenths of hours. As a general rule, the due process vendor should provide sufficient information so that JAC can assess the reasonableness of the billing.

When listing services, list the date and amount of time (in tenths of an hour), type of activity, and brief description for each activity separately. Avoid aggregating activities into block entries covering multiple service types, dates, and times. Aggregated entries can delay payment until the due process vendor provides additional information such as a more detailed hourly statement.

Incorrect description of services:

5/1 & 2/2017 Locate witness, review discovery, interview defendant - 5.2 hours

Correct description of services:

5/1/2017 Locate witness (2, LL and BJ) - 1.8 hours

5/1/2017 Review discovery 65 of 65 pages - 2.1 hours

5/2/2017 Interview defendant - 1.3 hours

For review of documents, the billing should indicate the type of document and approximate number of pages reviewed during the session. If a portion of the document was reviewed, the total number of pages should also be included, such as reviewed 100 of 179 pages. It is appropriate to include multiple documents in a single entry for review of documents as long as the total number of pages reviewed is included. For review of audio tapes, video tapes, or other media, the invoice should indicate the approximate length of the media. For locating witnesses, the invoice should indicate the number of witnesses involved.

JAC in Brief

The Justice Administrative Commission administratively serves 20 Offices of State Attorney, 20 Offices of Public Defender, 3 Offices of Capital Collateral Regional Counsel, 5 Offices of Criminal Conflict and Civil Regional Counsel, and the Statewide Guardian ad Litem Program; and, provide compliance and financial review of court appointed attorney fees and due process costs.

The membership of the Justice Administrative Commission consists of two State Attorneys, appointed by the President of the Florida Prosecuting Attorneys Association and two Public Defenders, appointed by the President of the Florida Public Defender Association. Although members may be reappointed, each term spans a period of two years (s. 43.16, F.S.).

JAC's Vision: To be a model of exemplary state government and provide unparalleled services.

JAC's Mission: To support the entities we serve and Florida's judicial system with fiscal controls, best practices, and exemplary service.

JAC's Values: We take great pride in exemplary service, adaptability, honesty, integrity, and diversity, as well as respectful and ethical conduct.