

# B3: Better Billing Bulletin

Issue #44 | December 2013

## District Area Director exemptions

- Lawyers may request that a certificate authorizing block fee eligible charges be exempted from the block fee billing program by submitting a request in writing to the District Area Director. Exempted block fee matters will be billed as tariff accounts.
- Exemptions are only granted in exceptional circumstances, such as exceptional Crown resources devoted to the prosecution, exceptional disclosure, an exceptional number of charges, the likelihood of multiple proceedings, novel facts or legal arguments, and/or lengthy sentencing proceedings.
- Lawyers must request exemptions as soon as they know they need them, and before they submit their accounts.

## Articling students attending on a block fee withdrawal or stay of all charges

- Lawyers can now bill a block fee withdrawal for an articling student's attendance at a Crown withdrawal or stay of all authorized criminal charges – so long as:
  - counsel has negotiated a withdrawal or stay and
  - the Crown has agreed in writing beforehand to the withdrawal or stay of all the authorized criminal charges.
- This new rule applies only to court attendance by an articling student, and is limited to withdrawals and stays of all criminal charges. It does not apply to guilty pleas or sentencing hearings.
- When billing for this online, please:
  - allocate the block resolution to the panel lawyer who did the work to negotiate the withdrawal/stay with the Crown and is instructing the student to attend on the withdrawal/stay. This may be the acknowledging lawyer or an agent of the acknowledging lawyer who belongs to the LAO panel

- attach the written confirmation of the withdrawal from the Crown
- record the name of the articling student and the articling student's court attendance on your docket.

## Submitting requests for mid-level case management budget on the portal

- Please select the document type that relates to the correspondence you are sending. This will help us send your document to the appropriate department.
- When submitting requests for mid-level case management budgets, always select the document type as "Mid-Case Management". Do not select this document type for other correspondence, such as requests for disbursements, discretion requests etc.
- Get more information on family case management.
- Get more information on mid-level criminal case management.

## Assignment of judgment for costs

- Under the Act, costs orders made in favour of a legally-aided party are the property of LAO. If a costs order is made in a client's favour, lawyers must have the client execute an assignment of judgment for costs. Go to the assignment of judgment for costs document on the LAO website.
- Costs awarded to legally aided clients in family law matters should not be enforced by or collected by the Family Responsibility Office.
- It is advisable to keep provisions regarding costs and other monetary awards separate and distinct. In addition, whenever possible, costs orders should specify that the costs are the property of LAO, thereby clearly indicating that LAO is the creditor and not the client.
- Please attach or forward through the portal:
  - the assignment of judgment for costs document
  - a copy of the court order awarding costs if there are any costs awarded
  - enter the dollar value of the costs awarded when submitting your account

# How to address online account errors

- If you make a mistake when entering an online account, please call the Lawyer Service Centre (LSC) immediately. The LSC can often fix errors caught on the day the errors are made. However, the system processes and locks accounts (complete with errors) in the evening.
- If you did not catch the mistake on the same day, please notify LSP of this in writing, through the portal. LSP will make the correction when the account is settled.
- If the account is not matched and in exceptions, the average processing time is 60 days.

## Breaches and how to avoid them

- To avoid breaches and possible recovery of fees and disbursements, please endeavor to submit accounts correctly and provide all documentation when requested.
- Lawyers can submit documents to the Audit & Compliance Unit (ACU) through the portal by using the document type ACU Response.
- If you have any questions about an audit by ACU, please contact the department at 416-979-2352, ext. 6530.

### Top five breaches identified by the ACU, July to Sept. 2013

(based on results from random and targeted examinations)

Major	Count	Sum	Comment
1. CRIMINAL	115	\$115,273.98	BLOCK - Work was billed on another block certificate (double billing)
2. CRIMINAL	59	\$28,607.86	Failed to produce proper books or records
3. CIVIL	77	\$17,719.89	Invoices not provided for disbursements
4. CRIMINAL	14	\$16,294.38	BLOCK - Work was billed on another certificate (hourly tariff) (double billing)
5. CRIMINAL	12	\$10,984.37	BLOCK - Substituted/incorrect Vendor ID (billing self when others (agents or students) are attending, or billing agents as oneself)

1. Where charges covered under more than one certificate are resolved together (i.e., in the same court on the same day), lawyers may only bill the resolution court attendance once. Where charges resolved together are authorized under two or more block certificates, lawyers should bill the resolution:
  - on the certificate that generates the highest block resolution fee or
  - if one set of charges is billed by regular tariff: hourly, on an hourly certificate.
2. Lawyers are required to provide dockets and any other documentation that supports payment of their online account (such as court information). If lawyers cannot provide such documents when requested, LAO may recover the full amount of the unverified amount.
3. Lawyers are required to provide invoices for disbursements billed that include:
  - contact information of the service provider
  - details on the time/date that the service was carried out
  - sufficient details and information to help clarify the need for this type of disbursementIf lawyers do not provide such information, the amount paid may be recovered.
4. If services are billed on another tariff certificate, same as 1.
5. Block fee payments are intended to cover the lawyer's attendance in court to conduct and complete a block fee proceeding. The account must indicate the name of the lawyer who attended at the final disposition, not who acknowledged the certificate or who did the preparation. Aside from the new rule for articling students (see above), only a panel lawyer can provide services to resolve a matter. If the lawyer's attendance cannot be confirmed in the docket or court information, LAO will recover the full block fee.

## Third-party disbursement invoices

Please itemize all disbursements in your detailed account. Lawyers can only bill a third-party disbursement if they have an invoice for the disbursement. When billing for a disbursement online, please attach all third-party invoices (a receipt or cancelled cheque is not an invoice) and ensure that they include:

- date of invoice
- the third party service provider's name, title (credentials), address, telephone number
- the name of the LAO client for whom service was provided,
- a description of the services provided to the LAO client, including dates of service provided and a breakdown of the expense (i.e. hourly rate, per page rate, number of

words etc.).

- the HST, clearly separated
- (if available) the business registration number and/or GST/HST number

## Questions?

Please let us know if you have questions or if there are topics you'd like to see us cover by contacting the Lawyer Service Centre at [pl-lsc@lao.on.ca](mailto:pl-lsc@lao.on.ca)



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