State of New York
Supreme Court, Appellate Division
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Betsy R. Ruslander
Director

Memo
To: AFC Panel Members
From: Betsy R. Ruslander
Re: **AFC Billing "Job Aid"**
Date: January 2, 2019

This guide is intended to supplement but not replace reading and becoming completely familiar with both the Compensation and Reimbursement Policies and Procedures (Administrative Handbook, pp. 24-37), as well as the E-voucher manual which can be found on our website, nycourts.gov/ad3/oac. The cites below refer to pages in the Administrative Handbook, unless otherwise noted. This list is not meant to be exhaustive or descriptive of all billing policies, which are set forth in detail in the Administrative Handbook, but rather to serve as a job aid or guide to highlight common AFC billing rules and issues. We hope it is useful to you in your practice. We encourage you to please contact the Office of Attorneys for Children with any questions, concerns or trouble that you may have with billing, and we will be glad to help you.

1. Time-keeping Records

a. "Real time" (p. 24, 30)

Attorneys for children are required to maintain contemporaneous time keeping records containing "real time" documentation that reflects start time and actual time spent (e.g., 9:00 a.m. - 19 minutes). Billing records are not to be in tenths of hours.

b. Documentation (p. 24)

Attorneys for children are required to maintain sufficient documentation to ensure justification of work done on assigned cases and vouchers submitted. For example, if the voucher contains an entry for a phone call, there should be a note or message in the file reflecting that phone call. Such records should be contemporaneous, that is, created at or about the time of the work done. The voucher is not self-authenticating but should have supporting documentation of services provided. While there is no "pro bono" panel status, if you choose not to submit a voucher, you are nonetheless required to maintain documentation of the work that you do for the court-appointed assignment.

c. Services only by the AFC

The statutory rate of compensation for legal representation is $75 an hour. The attorney for the child assignment is to the ***individual*** and not to a firm. As such, the voucher should contain legal work done by the assigned attorney only (subject to a substitute for a court appearance, see no. 15 below). Therefore, work done by a secretary, paralegal, employee, or any other person, other than an expert (see no. 17f below), is not compensable.

2. AM/PM

Because "real time" billing is required, please take care to enter the time correctly in the e-voucher system, including whether the time of day is "AM" or "PM". If an error is made, a voucher may be returned for correction.

3. Choose the Correct Court

Take care to choose the correct court, be it Family or Supreme, when you ***begin*** a new voucher in the e-voucher system. Once the voucher has been created, the court cannot be changed.

4. Raise the Age vouchers

Take care to select the correct court as you will not be able to change the court after the voucher is created.

a. For cases sent to Probation Adjustment

The attorney will select "Supreme Court" (not the "Family Court" because there is no Family Court Docket number), then select the new Proceeding Type entitled "RTA – Probation Adjustment" and enter the Felony Youth Complaint (FYC) Docket number that was assigned in the Superior Court Youth Part. If the new proceeding code is not there, select JD or Designated Felony.

b. For cases removed directly to Family Court

Cases that are sent directly to Family Court without going to Probation Adjustment will be billed as they normally would for a JD proceeding by selecting "Family Court" and the appropriate Proceeding Type (ex: D – Juvenile Delinquency or E - JD Designated Felony) and entering the Family Court Docket number.

5. Submission

After completing the voucher online, the voucher must be printed, signed by the attorney and submitted to the court for approval.

6. Court Rule 835.5 - Annual Billing Requird (p. 15, 28)

A voucher for services to a client(s) in a case, including all proceedings (except appeals) pending as to the client(s), must be submitted every 12-14 months from the date of the first activity and every 12-14 months thereafter through the final activity in the case. Appellate vouchers may only be submitted once, following the decision, but in no event later than 12 months from the date of the decision. The Appellate Division reserves the right to deny any voucher submitted outside the prescribed time frame.

7. Client Contact (p. 25)

a. Client Contact - Code B (p. 31)

Client contact should be billed under Activity Code B (see p. 31 and no. 10 below), however, only client contact should be included under Code B. Travel time or meeting with the parent should not be included under Code B.

b. No Client Contact (p. 25)

Every voucher, including appellate vouchers, should include client contact. In the event that the attorney has not had any client contact, an affirmation must be included outlining the reasons for the lack of client contact. Neither the young age of the child nor a settlement is justification for lack of client contact. If a matter has settled and there are difficulties meeting with the client, the attorney may put the stipulation on the record with a contingency that the child must be seen within a reasonably short amount of time.

8. Activity Codes (p. 31)

The type of work typically done on a case is categorized into Activity Codes, which are outlined on p. 31 of the Administrative Handbook. Work performed should be properly categorized, including a brief description of the work, as indicated under each category. Please do not mix activity codes. For example, time spent doing legal research (Code F) should be billed separately from time spent preparing the motion for which the legal research was done (Code E); or time spent traveling to see a client (Code C) should be billed separately from time spent with the client (Code B).

9. Double Billing (p. 26)

Double billing is strictly prohibited.

10. In-Court Time (p. 25)

a. UCMS in Family Court

In order to bill for a Family Court appearance, the attorney for the child must be noted in UCMS as being present. If the attorney is at court for a court appearance but does not go on the record, it is incumbent upon the attorney to request that the Family Court Clerk note his/her appearance in UCMS. If the court appearance is not showing up in the e-voucher system, please call our office, in the first instance, as we may be able to resolve the problem.

b. Wait time

Time spent waiting for a case to be called may be billed as in-court time, from the time the case is calendared until the time the attorney leaves the courtroom. If other work is being done during any portion of that wait time, it should be billed as out-of-court work.

11. Travel (p. 27)

a. Travel time and mileage is reimbursable for trips in excess of five miles round trip.

b. Time spent getting directions is not billable.

c. Time spent walking or parking, or walking to/from parking is not billable.

d. Reimbursement for travel time and mileage will be as reflected by the shortest route on MapQuest. Should there be construction, traffic, weather, detour or other delay, the extended time and mileage is not compensable.

12. IDV Cases (p. 29)

IDV cases must be split and billed to Family Court for the portion that occurred there, and to Supreme Court for the portion that occurred after the case is transferred there.

13. Substitute Vouchers (p. 30)

If the assigned attorney for the child is unable to appear due to unavoidable circumstance, with the permission of the client and the court, another panel member may appear for the assigned attorney on non-substantive matters only. The substitute attorney submits a voucher for the appearance by clicking the box that says "Substituting for assigned Attorney for the Child" and then choosing the name of the assigned attorney (p. 15 of the E-voucher manual). Although there will be a warning that the attorney was not present in court, that warning refers to the assigned attorney and can be disregarded by the substitute attorney.

14. Appeal Vouchers (p. 30)

Vouchers for work on appeals should be submitted directly to the Appellate Division, together with a copy of the attorney for the child brief. Interim vouchers on appeals are not permitted.

15. Expenses (p. 26)

a. For travel see no. 13 above.

b. For a summary of reimbursable expenses see chart on p. 37 of the Administrative Handbook.

c. Time spent preparing a voucher is not billable.

d. While time spent doing legal research is billable, associated charges for Westlaw or Lexis/Nexis are considered office overhead and may not be billed.

e. Current rate for mileage can be found on our website under FAQ or News Alerts.

f. Experts (pp. 33-35). If the cost of expert services will exceed $1,000 [or $500 for transcripts, see (g) below], pre-approval of the trial court and the Office of Attorneys for Children is required. The Pre-Approval Form is located under the "Administrative Forms" link on the website. If you have any questions about an expense of representation, please feel free to contact the Office of Attorneys for Children.

g. Transcripts (p. 36).

Transcripts may be obtained by use of the Minute Order Form, also available at the "Administrative Forms" link on the website. Please confirm the need to order a transcript and investigate potential cost-sharing. The rates for transcripts are statutory and expedited rates and not authorized.

16. Excess Compensation (p. 32)

Vouchers in excess of the statutory amount of $4,400 require an affidavit of extraordinary circumstances which is set forth on p. 32 of the Administrative Handbook. The affidavit must include more than a perfunctory statement.

17. Changes to Attorney Information

It is the attorney's responsibility to verify and maintain accurate information in both SFS and the e-voucher system. However, should the need arise to change contact information, please contact the voucher processors who will be happy to assist you with making the changes and filling out the appropriate forms.

18. Supreme Court Filing Fees

The attorney for the child has automatic poor person status. Most Court Clerks should know this but they may not know, simply from your filing, that you represent a child. Therefore, please advise them or, in the alternative, make a motion for poor person status so that you will not have to pay any fees. Such fees will not be reimbursed on a voucher and the attorney will have to seek reimbursement from the court.

19. Clarification

From time to time, the Office of Attorneys for Children may have a question about a voucher or a request for further documentation in order to verify its accuracy or clarify certain circumstances. Because these vouchers are paid for with state taxpayer dollars, please understand that we have an obligation to be as accountable as possible. We request your cooperation and assistance so that we may promptly complete the processing of the voucher.

If you have any questions about vouchers or billing, we encourage you to contact either of our voucher processors who will be happy to help:

Maureen Reilly at (518) 471-4829; or
Jennifer Hornick at (518) 471-4828; or
by e-mail to ad3-oac-vouchers@nycourts.gov

Thank you for your service as Attorney for the Child.