Controlling Legal Bills

**Self-insured employers** frequently are faced with the challenge of knowing whether or not they are getting good value for their dollars when paying their legal bills. Self-insured employers have a smaller claim volume than the standard workers’ compensation insurance company, and hence have a smaller need for defense attorneys. However, as legal fees can be a significant portion of the cost of litigated claims, it is important for self-insured employers to properly manage their legal cost.

**Prior to the assignment** of a workers’ compensation claim to a defense firm, the self-insured employer needs to establish with the defense firm a set of billing guidelines for the legal service bills. Criteria that should be included in the billing guideline include:

* The stated hourly rates for senior partners, partners, associates and paralegals
* Secretarial support time should not be billed
* Any changes in hourly rates will apply only to new cases, with no hourly rate changes on pending case
* All activity and time spent on the file is to be itemized and billed individually, with no bulk time or block billing for multiple activities
* All billing will be increments of one-tenth (0.1) hours
* There will be no re-assignment of the principal attorney on the case without the self-insured employer’s prior agreement
* All discovery issues/items are to be pre-approved by the self-insured employer
* The frequency of service bills, whether monthly, quarterly or semi-annually should be agreed to
* Internal consultations, training of associates and paralegals, and inter-office conferencing should not be charged
* Billing for legal research will not be considered unless it is outside of the normal parameters of the expertise of the defense attorney

**Often overlooked** are additional legal expenses. Criteria for expenses should be established prior to the assignment of the workers’ compensation claim to the defense attorney. Common criteria for legal expenses include:

* All travel outside of the local area should be pre-approved by the self-insured employer
* Air fare will be at the coach rate after pre-approval
* Motel stays should be in the mid-price range
* Travel time should be capped (8 hours per day)
* Automobile mileage will be reimbursed at the Internal Revenue Service current business mileage rate
* Telephone expenses should be not be charged
* Photocopy charges per page should be agreed to ($.10 per page is common) and should be itemized
* FedEx, UPS and USPS delivery charges will be paid, if not due to inefficiencies in the defense attorney’s office
* Postage to be paid only if higher than the single stamp rate and should be itemized
* Subpoena service should be billed at cost
* Any unusual expense should be pre-approved by the self-insured employer

**Sometimes defense attorneys** get creative in their billing of time and expenses. The following cost should not be reimbursed to defense counsel:

* Any overhead cost of doing business (overhead cost are already included in the attorney’s hourly rate)
  + Office rent, utilities, storage of files
  + Secretarial support
    - File/case creation
    - Bill preparation
    - Phone messages
  + Computer usage / fax machine usage
* Mark-ups on bills submitted by vendors
* Equipment rentals

**By establishing** with defense counsel prior to case assignment what is acceptable billing behavior, the self-insured employer avoids unhappy surprises and hassles with the legal bills. The legal billing guidelines should be incorporated into your overall litigation management program.