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To: Florida Attorneys and Due Process Vendors
From: Stephen Presnell, General Counsel
Date: April 15, 2011
RE: Submission of required supporting documentation

In recent months, JAC staff has noted that some attorneys or due process vendors have failed to provide required supporting documentation with their billings to JAC. In the past, JAC staff has attempted to resolve these deficiencies by relying on online resources to obtain the required supporting documentation. Due to ongoing budgetary issues, JAC staff is no longer in a position to locate documentation that should have been previously submitted to JAC or should have been included in the billing packet.

Therefore, JAC may return a billing for lack of documentation rather than obtain that documentation itself or issue an audit deficiency.

Under the terms of the JAC Agreements, attorneys and due process vendor are obligated to provide essential documentation as part of the billing packets. The following is a brief overview of JAC requirements for attorneys and due process vendors:

Court Appointed Attorneys

The attorney must submit his or her order of appointment within 30 days of appointment. If filed, the attorney must also submit the charging document or other case opening document. If not filed, the charging document should be submitted as soon as feasible upon filing.

For attorney fee billings on a flat fee basis, the attorney must submit the correct JAC Invoice Voucher Cover and a dispositional order such as a judgment and sentence. For attorney fee billings seeking extraordinary fees, the attorney must also include an hourly statement and the court's progress docket.

Indigent for Costs Attorneys

A privately retained attorney whose client was declared indigent for costs must provide JAC with the motion to declare the defendant indigent for costs, the completed clerk's application for indigency, an affidavit attesting to the estimated amount of attorney's fees, the order finding the defendant indigent for costs, and the charging document. The attorney must also execute the JAC Agreement for indigent for costs cases. JAC cannot pay any due process costs until JAC receives this documentation and the attorney executes the JAC Agreement.

JAC reminds attorneys that **JAC is an essential party to any proceeding to declare a defendant indigent for costs** and must be served with any such motion and the supporting affidavits prior to the court considering the matter. JAC should receive at least five business days' notice before a court holds a hearing or otherwise considers the motion.

Due Process Vendors

JAC must have received the case opening information from the attorney as discussed above. In addition, the due process provider or attorney must provide JAC with a completed JAC Invoice Voucher Cover as well as an order authorizing the due process services in most instances.

For court reporting services, an order is generally not necessary for appearance or attendance fees assuming the deposition was taken in accordance with the Florida Rules of Procedure. An order is required for any transcripts.

For other due process services such as investigators, mitigation specialists, and experts, an order must be provided indicating the amount authorized for the services as well as an hourly rate if the rate sought exceeds the rate established by law or there is no rate set for that circuit. Additionally, any billing on an hourly basis must include a detailed hourly statement in hours and tenths of hours.

As with a motion to declare a defendant indigent for costs, **JAC reminds attorneys that JAC is an essential party to a motion seeking due process costs** and must be served with that motion prior to a court considering the motion. Again, JAC is entitled to reasonable notice before a court holds a hearing or otherwise considers the motion.

Failure to Provide Supporting Documentation

If a billing is submitted without necessary supporting documentation, JAC may return it. This applies to both due process vendors and attorneys. Although in the past JAC staff has issued audit deficiencies or obtained missing documentation through online resources, JAC staff may no longer do so. This should help increase JAC efficiency in dealing with billings and reduce the time JAC spends processing which may result in faster payments and fewer court hearings. Generally, JAC will only issue audit deficiencies in those circumstances where there are problems with the sufficiency of the documentation rather than a failure to provide the essential supporting documentation.

If an attorney or due process provider submits an incomplete billing, it is probable that the billing will be returned due to inadequate documentation. Because the billing will not be deemed submitted to JAC, the attorney or due process vendor will need to resubmit the billing. This could result in a delay in payment and a penalty for untimely billing.

JAC has posted on its website (<http://www.justiceadmin.org/>) numerous documents to assist attorneys and due process vendors in properly submitting billings to JAC including policies and procedures manuals, frequently asked questions, and various practice guides.