

# INTERNAL AUDIT

Legal Billing Transfer  
Advisory

May 25, 2021





## Advisory Memorandum

### Background

One of the core business functions of Citizens is to process property or casualty insurance claims. Policyholders sometimes file suit against Citizens with regards to Claims resulting in Citizens engaging external defense counsel that provide litigation services. The defense counsel and professional expenses for legal related work are reviewed prior to payment by the Legal Bill Review Team (LBRT)

The LBRT currently reports to the Director - Assistant General Counsel for Claims Litigation which reports to Citizens General Counsel. However, management is considering realigning the LBRT into the Claims organization and asked Internal Audit to provide an advisory.

### Objectives and Scope

Internal Audit has been asked to perform an advisory to provide insight of the proposed initiative of transferring the LBRT, currently attached to the Claims Legal unit of the Legal Department, to the Claims Department.

### Analysis

Internal Audit did research, performed a market survey, and took into consideration a consulting engagement report performed in 2016 by CLM Advisors, and E&Y consulting reports performed in 2020.

Citizens engaged CLM Advisors to review and provide an objective assessment of the bill review and compliance program (legal bill review program) as compared to the industry's best practices in legal billing and compliance review. As noted in the CLM Advisors Consultant report dated December 8, 2016 it is believed that "best practices" standard supports the housing of a legal bill review program within the claims department.

In the report it was noted through a confidential 2011 client survey, that 8 of 11 insurers with legal spend greater than \$70m annually, housed legal billing within the claims department. It was also noted that both organizational structures are appropriate if there is adequate independence between functions. One of CLM Advisors' findings was the high percentage of legal bill reductions as compared to the industry. The adjustments found were:

Year	Percentage of Reductions
2014	14.00%
2015	12.13%
2016	11.06%

CLM Advisors noted, based on the industry survey, that a mature bill review program (one over 5 years old) with an established list of panel counsel (one with little turnover) should steadily lower the percentage of reductions for legal bills to under 4%.



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In 2020, Ernst & Young (E&Y) was engaged by Citizens to perform an operational assessment of the litigated claims management process *vis a vis* industry leading practice. E&Y's reports were issued December 15, 2020 and referenced several opportunities to enhance efficiencies and effectiveness. Per the reports, the LBRT is responsible for the review and adjustment of all defense counsel invoices, as well as performing quality assurance analyses of Legal Billing Reviewers/Auditors. E&Y noted that LBRT reports to the Claims Legal Billing group within the General Counsel's Office, as opposed to the claims organization, despite the claims organization ultimately being responsible for billing outcomes and the procurement of outside counsel. Per E&Y, aligning LBRT within claims promotes a more centralized approach towards effectively managing defense counsel.

Internal Audit obtained a data analytics report showing legal spend for **closed** matters. For all matters closed during the years 2018 to 2021 the report shows the following:

Year	Attorney Fees Submitted	Attorney Fees Paid	Reductions	Legal Expenses Submitted	Legal Expenses Paid	Reductions
2018	\$73,526,920	\$56,948,651	\$19,578,269 (26.6%)	\$4,544,129	\$3,516,955	\$1,027,174 (22.6%)
2019	\$88,242,183	\$75,205,356	\$13,036,827 (14.7%)	\$4,221,813	\$3,421,602	\$800,211 (18.9%)
2020	\$73,929,551	\$63,548,169	\$10,381,382 (14%)	\$2,045,564	\$1,514,137	\$531,427 (2.59%)
2021	\$15,918,117	\$13,574,067	\$2,344,050 (14.7%)	\$321,924	\$244,073	\$77,851 (24.1%)

**Note:** 2021 data is for the first quarter.

This report shows that the percentage of reductions for fees have remained at 14% since 2019 and reductions for legal expenses have been over 18% since 2018, except in 2020. One explanation for the low expenses/reductions in 2020 may be the effects of the COVID-19 pandemic. As business activity picks up and courthouses reopen, defense counsel legal expenses may increase and should be monitored.

With regards to the percentage of reductions in fees, further analysis would be required to determine at what level have these reductions occurred (Acuity, LBRT or Litigation Specialist), their ratio, and the reasons why there could be non-compliance with billing guidelines. The percentage of reductions is higher than the industry benchmark of 4%, noted by the CLM Advisors Client Survey.



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### Industry Survey

Internal Audit performed a survey with some Florida domestic insurance carriers as well as with some industry contacts. The survey focused on billing review methods utilized by these companies. The results are as follows:

Company	Bill Review Method
UPC Insurance (United)	Software / Case Manager
Universal Property & Casualty	Software / Case Manager
FCCI	Software / Case Manager
Universal North America	Case Manager for direct business; TPA for MGA business
Tower Hill	Software/ Case Manager
Centauri Insurance	TPA
Bankers Insurance	Software / Case Manager
Southern Fidelity	Software / Case Manager

The survey shows that most of the carriers have a two-tiered approach, with software being used in the first step and case manager validation/audit in the second step, whereas Citizens utilizes a three-tiered approach with software, LBRT and Litigation Specialist review and approval.

### Opportunities for Management Consideration:

With regards to the transfer of the Legal Billing Review Team, Citizens has various alternatives:

- A. Transfer LBRT to the Claims Department
- B. Maintain the unit under the Legal Department
- C. Utilize software / vendor alternatives

#### A. Transfer LBRT to the Claims Department

Pros	Cons
a. Streamline litigation management activities	a. Requires revision of job descriptions
b. Alignment with industry practices	b. May require retraining
c. Operational function reporting to operational function instead of support function	c. Personnel may show resistance to change and decreased morale



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d. Allows for strategic alignment between operational functions	
e. Allows for accountability of operational function	

- I. *Governance Structure Considerations*: Internal Audit supports the following integration provisions as they provide credence to the governance structure for a Legal Billing Unit to be housed within a Claims Department:
  - a. Consider having the LBRT report into the Claims Vendor Relations area to keep adequate segregation from the Claims Litigation unit. It is critical for management to ensure Legal Billing area independence from undue Claims Litigation Management influence. As noted in the consultant report, “from an industry “best practices” standpoint, it is of greater importance that the corporate structure for a bill review program allow for reviewer freedom to provide independent assessments of legal bills without interference or *carte blanche* overrides of deductions by the claims department.”
  - b. Consider updating and simplifying Citizens’ Guidelines for Claims & Litigation Legal Services to minimize inaccurate interpretation by legal billing management and reviewers. (Last updated 10/23/2017)
    - i. In addition, consider integrating and aligning the guidelines into the Legal Billing review process so there is definitive support for approving or reducing invoices.
    - ii. On a continuous basis all legal billing questionable gray area scenarios need to be captured, vetted, and decided upon between Claims Litigation and Legal Billing Management and memorialized by updating the guidelines and communicating to defense counsel firms. Some gray areas recommended to be revisited are:
      1. Appellate and complex rate process to minimize rework.
      2. Appeals process to minimize work arounds
      3. Defense Counsel travel time allowances and scenarios
  - c. Consider realigning the Legal Billing QA team with the Claims Quality Assurance organization to provide segregation of duties and independence between the legal billing operational unit and the QA function.
    - i. The Legal Billing QA team should provide independent review of the legal billing teams work in addition to providing comprehensive Legal Billing QA Metric reporting to Claims Leadership.
- II. *Governance Practices Considerations*: The following governance practices should be considered for implementation upon restructure:



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- a. In general, there should be minimal overrides of legal billing reduction decisions by Claims Litigation. If there is a need to override a reduction, there needs to be a clear escalation and approval process in place, in addition to the approval and reasoning documentation noted in the Acuity Claims file. Or Management may consider a two-tiered approach, thereby having minimal involvement of Litigation Specialists.

### B. Maintain LBRT under the Legal Department

Pros	Cons
a. Does not require retraining	a. Operational function reporting to a non-operational support function
b. Does not require revision of job descriptions	b. Inefficiencies resulting from a disconnect during guideline changes and updates
	c. Minimal segregation between Legal Billing review and QA of work performed

### C. Utilize software / vendor alternatives

Management may want to consider this alternative after the implementation of the new Enterprise Litigation Management System, for which a solicitation process is currently underway. The mapping of broad billing guidelines into the new platform, as well as its other available features, integrations, and configurations will determine if there is a need for additional software, vendors, or resources for bill review purposes.

Internal Audit would like to thank Management for utilizing IA Advisory Services.

### References

- CLM Advisors (December 8, 2016) Review and Assessment with Recommendations of the Citizens Property Insurance Corporation Legal Bill Review and Compliance Program.



## Distribution

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