

Retroactive Authorization Requests/Disbursements

Part 1: Definitions

Authorization request: a written request made to LSS for approval of a disbursement cost

Date of service: the date a service that is listed in the *LSS Tariffs* as a billable service was provided to the client

CIS: Client Information System

CMC: Case Management Coordinator

Exceptional circumstances: includes situations where:

- a. the lawyer was unable to request authorization before incurring the expense or contracting for third-party services due to the demands of the case (i.e., daily transcript is required) or circumstances beyond the lawyer's control; or
- b. denying a retroactive authorization request would create undue hardship or significant unfairness

LSS: the Legal Services Society

One time exception: LSS may allow a lawyer a "one-time exception" during her/his period of service as a tariff lawyer for failing to seek prior authorization for a disbursement cost where required by the LSS Disbursements Tariff

Received date: the date the authorization request was received by LSS

Retroactive authorization request: an authorization request submitted to LSS *after* contracting for third-party services or incurring the expense

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Part 2: Policy

1. To be reimbursed for a disbursement that is not automatically authorized or is authorized only to a specified limit, a lawyer must obtain authorization *before* contracting for third-party services, incurring the expense, or exceeding the limit.
2. In assessing retroactive authorization requests, LSS will consider:
 - a. whether the disbursement meets the necessary and reasonable guidelines set out in the Disbursements Tariff (i.e., would the authorization request have been approved if submitted in advance as required);
 - b. whether the lawyer qualifies for a “one-time exception”; and
 - c. whether “exceptional circumstances” exist.
3. A lawyer who submits a retroactive authorization request where she/he has already been granted a one-time exception may still have that request reviewed if exceptional circumstances exist. LSS recognizes that exceptional circumstances may exist that can affect a lawyer’s ability to submit an authorization request in advance of contracting for the service or incurring the expense.
4. LSS may deny a retroactive authorization request without further review by the CMC where the lawyer has already been granted a one-time exception and no exceptional circumstances exist.
5. All retroactive authorization requests are also subject to the six-month billing policy. A lawyer must submit an authorization request to LSS for review no more than six months after the last date of service to the client.

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Part 3: Procedures

1. An authorization request is submitted to LSS for consideration via e-authorizations or in writing
2. The request is received by e-authorizations or entered into CIS by the Case Management Assistant.
3. If the CMC has a question about the details of the request or requires more information to make a decision, the CMC will forward a written request for additional information to the lawyer. If the CMC does not receive a response from the lawyer within 30 days, the authorization request will be considered abandoned. The CMC will close the authorization request file and may refuse to give any further consideration to the authorization request.
4. The CMC logs retroactive authorization requests, applies the disbursement guidelines set out in the Disbursement Tariff and the six-month billing policy, and makes a decision as to whether:
 - a. the request is eligible for a one-time exception and the request will be partially or fully approved or denied;
 - b. any exceptional circumstances exist and the request will be partially or fully approved or denied; or
 - c. the request is not eligible for a one-time exception and there are no exceptional circumstances so the request may be denied.
5. The CMC may, as necessary, consult with the relevant manager in the Legal Advice and Representation (LAR) division in assessing the retroactive authorization request.
6. The CMC's decision is conveyed to the lawyer in writing.

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Part 4: Request for Review

1. A lawyer may send a written request for review to the CMC outlining why she/he did not agree with the CMC's decision within 30 days of receiving the original decision.
2. If the request for review includes new information, the CMC may reapply this policy, reassess his/her original decision (i.e., approve the request), and convey his/her new decision to the lawyer in writing.
3. If the request for review does not include new information, or if the CMC's reassessment does not change his/her original decision, the CMC gathers all information and documents relating to the authorization request, prepares a covering memo, and forwards the "review package" to the Manager, Lawyer Services or his/her designate for review.
4. The Manager, Lawyer Services or his/her designate reviews the "review package," consults with the relevant LAR manager as necessary, makes a decision to partially or fully approve or deny the authorization request, and conveys his/her decision in writing to the lawyer.
5. The decision of the Manager, Lawyer Services or his/her designate is final and there will be no further reviews of the retroactive authorization request.

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History

Questions to: Manager, Lawyer Services

September 1, 2016: Updated terminology and department name.

April 27, 2015: Reformatted and updated terminology.

EMC Approved March 13, 2012 — new policy

SEE [POLICY](#) AND [FORMS](#) PAGES FOR: Other policies and forms referenced in this document.