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Market Study Report

Law Firms and Electronic Invoicing Processes — A Review of Challenges and Opportunities

An examination of how insurance defense law firms have responded to the compliance requirements of e-billing and litigation guidelines.

**Authored by
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Introduction

Technologies that facilitate the electronic submission and programmatic review of legal invoices have now been in place in the insurance defense industry for more than a decade. Facilitated by these software platforms, insurance carriers have developed and applied increasingly detailed billing guidelines that outline with greater specificity what they will and will not pay for across the continuum of defense-oriented legal activities. Simultaneously, many insurance companies have instituted more effective and strict processes for physically reviewing the invoice, either by creating internal centralized invoice review audit teams or by outsourcing this activity to third-party organizations.

The combination of these three industry trends, (software, more detailed guidelines, and stricter invoice review) has been somewhat of a perfect storm for law firms practicing in the insurance defense realm. As one attorney Study participant put it, “in the first five years of my practice, I can’t think of a single invoice that was ever adjusted. In the last five years of my practice, I can’t think of one that wasn’t.”

We believe this Study to be the first to review and analyze how insurance defense firms have responded to these industry shifts. In this Study we attempt to quantify what resources and processes law firms have put in place to ensure the highest possible compliance with their principals’ (the insurance carrier) guidelines, as well as how effective these expenditures of money and time have been.

About CLM Advisors and the Study

This Study was authored by Toni Forge, Esq., an advisor with CLM Advisors. Ms. Forge may be reached for any questions about the Study or this Report by writing to toni.forge@theclm.org.

CLM Advisors consults with claims and litigation executives, law firms, and service and technology companies serving the litigation arena. The organization provides operational and strategic assessments, market studies, and assistance across a wide spectrum of topics. More information about CLM Advisors can be found at www.clmadvisors.org.

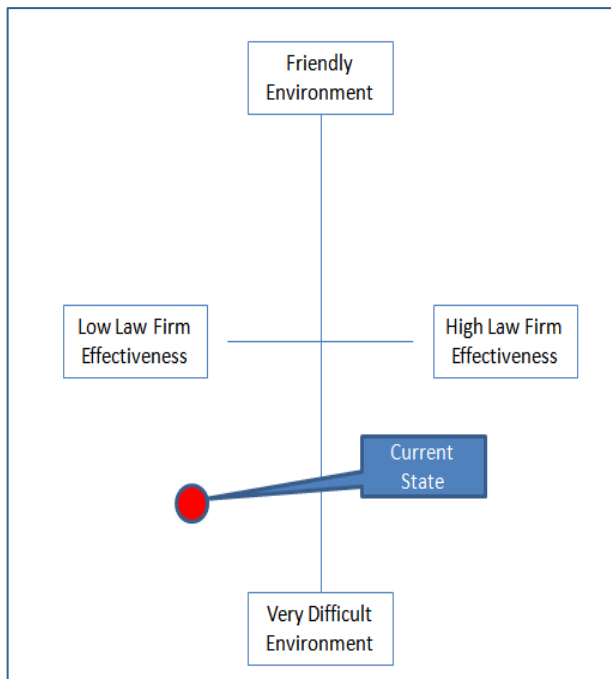
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This Study was commissioned by InvoicePrep, a rapidly growing company that helps law firms prepare legal invoices that are fully compliant with their clients’ billing guidelines. More information about InvoicePrep can be found at www.invoiceprep.com.

Summary – Primary Findings and Executive Overview

A core purpose of this Study was to evaluate how law firms are faring in the area of invoice preparation and management, as well as their receptivity to new tools and processes to improve their overall effectiveness in this area.

Primary Observations: The current situation is not optimal, in terms of business environment and business effectiveness for law firms, with increased scrutiny on their invoices and increasing levels of investment – both staff and process - required to navigate the challenges.



Stated broadly, the process is not getting better for firms, but worse. It is getting harder, not easier, for firms to prepare and submit compliant invoices. Firms are increasing the size of their billing departments and allocating more billable time in the pre-bill review process.

Despite these investments of time and money, it is our observation that firms are not keeping up easily with the advanced tools and processes their clients are deploying. Only a small fraction of firms (8%) feel they are getting the data they need to improve their invoicing processes. 84% feel that the adjustments to their invoices are “unfair.” A full one-third of firms report aggregate invoice adjustments of 5 percent or greater.

Without a change in direction by law firms - such as engaging external expert help, hiring more qualified billing staff versus junior level personnel or using better invoice preparation software - law firms will continue to be frustrated and challenged in their efforts to ensure maximum compliance with their clients’ e-billing software platforms and billing guidelines.

Primary Findings:

- **Roughly 45 to 65 percent of insurance defense firm revenues are typically flowing through e-billing systems.** Insurance defense law firms are no stranger to e-billing systems and increased invoice scrutiny by clients. Eighty percent of firms work with seven or more clients who each use an e-billing system to receive and process invoices. Sixty-five percent of firms use more than five distinct e-billing software platforms.

- **Roughly half of participants reported growth in their billing department size in the past five years, often directly attributable to e-billing requirements.**
To keep up with industry trends, law firms have invested heavily in two processes — more billing department resources and more labor-intensive pre-bill invoice review processes. The investment in billing departments is significant and growing.
- **Firms do not currently measure the economic value of the time they spend in pre-bill reviews.** When including both invoice preparation and appeals management, respondents generally identified a proxy of 12 – 15 hours per month on average spent in this process. Additional time is spent by other firm resources. The economic investment by the firm in these processes is significant. A firm with 20 billing partners, at 12 hours of invested time a month, is essentially investing 2,800 hours, or the time equivalent of 1.5 new associate attorneys
- **If law firms could “free-up” the time they otherwise spend dealing with invoice issues, 90 percent of them would spend the time servicing clients and billing more, or developing new business, or both.** If attorneys could free up or reduce invoice-management related time, they would put it to good use.
- **The current state of the industry suggests that firms are having difficulty keeping up or controlling the change of pace when it comes to invoice management.** In order to match client-side invoice audit resources, who are frequently attorneys and very experienced in invoice review, firms are deploying more billing department resources, with generally less experience and fewer resources.
- **Eighty-four percent feel that their clients’ adjustments of their invoices are “unfair.”** Firms’ lack of core expertise in invoice management may be contributing to the frustrations expressed by firm Study participants. They view adjustments as expressions of “distrust” by their client, a perception that may not be valid. These perceptions and the fact that it can be time-consuming and expensive to appeal an adjustment may be the underlying reason why many firms don’t appeal every adjustment made to their invoices. Only 4 percent appeal all adjustments. More than half appeal only “sometimes.”
- **Only 8 percent of firms report receiving information back from their clients that is helpful to improving overall invoice preparation practices.** Only 16 percent of law firms receive any information from their clients on this topic. This is an area of frustration for firms. Firms feel somewhat vulnerable when their client has information that the firm doesn’t have.
- **Most firms believe that the invoice preparation and submission process could possibly be improved through the use of third-party experts.** Two thirds of participants saw a direct correlation between law firms and the medical profession in this respect. In the medical

arena almost all practitioners now use a third-party invoice preparation firm due to the onerous and complex billing requirements of their payors.

- **Law firm investments in larger billing teams and increased pre-bill review processes have not been as effective as the firms might have hoped.** We believe there are three core metrics that suggest this:
 - It is getting harder, not easier, to get invoices paid. Seventy-four percent of law firm respondents report this to be the case.
 - Billing departments are growing in size, even though attorneys are spending more time in the pre-bill review process.
 - Law firms continue to experience relatively high invoice adjustment rates.
- **A full 30 percent of firms reported overall adjustments to their invoices in excess of 5 percent. Fourteen percent reported overall adjustments over 9 percent.** Roughly half firms report 3 to 5 percent adjustment levels. These are high adjustment levels and have a significant cost impact on the firm. For the reasons noted in the Study, we believe these figures to be conservative.
- **Only 4 percent of respondents knew where they stand on their clients' comparative adjustment rankings.** While many firms treat these adjustments as an unavoidable cost of doing business, we suggest there are other reasons for addressing adjustment rates proactively. Many firms are at risk for increased audit attention, retrospective quality audit work, or in worse case scenarios, vulnerable during their clients' initiatives to reduce panel counsel size.

Study Methodology

This Report aggregates findings from two distinct methodologies. First, law firm partners from 53 distinct insurance defense firms participated in a standardized verbally administered survey of approximately 40 questions. Survey questions were categorized into five topics:

- I. Law Firm Demographics
- II. Billing Department Metrics
- III. Invoice Preparation Processes and Resources
- IV. Adjustment and Appeals Management
- V. Data, Metrics and Revenue

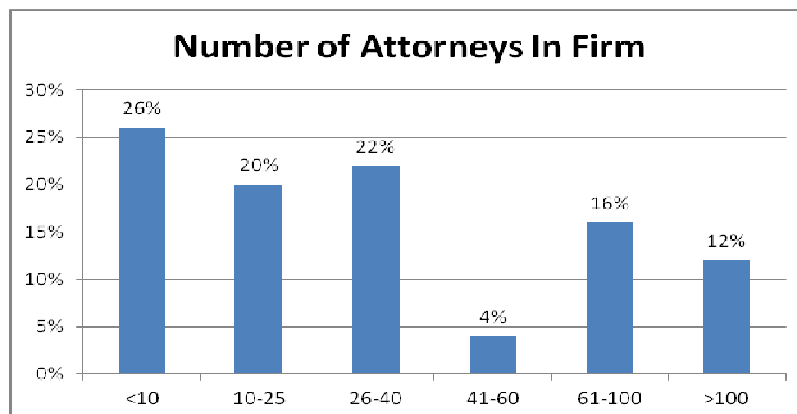
Second, additional in-depth and less structured interviews were conducted with a sub-section of Study participants. Interview topics were similar to those in the structured survey, but also gathered anecdotal data points about specific invoice adjustment levels, types of activities being adjusted, and other information relevant to understanding the broad invoice preparation and submission challenges faced by firms generally.

All information obtained in this process was done under the protection of confidentiality. Accordingly, all information presented in this Report has been formatted to ensure that no correlations can be made between a respondent, his or her law firm, and the data provided.

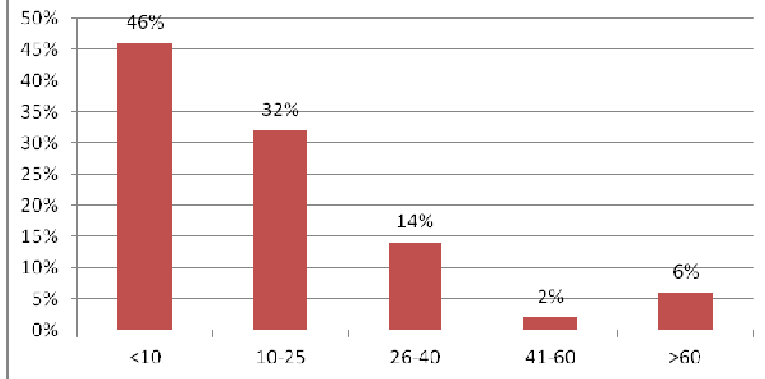
Participants

Specific care was given to ensuring that a broad cross-section of the insurance defense industry participated.

Firm Size: Approximately 68 percent of the firms who participated have less than 40 attorneys. Twenty eight percent of respondents had more than 60 attorneys in the firm.



Number of Partners in Firm

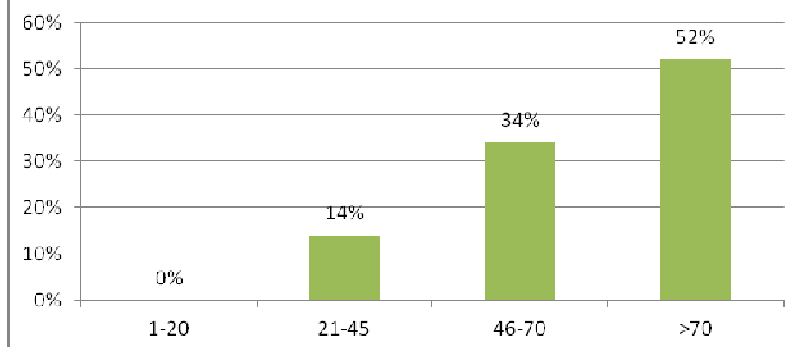


Partner Base: Consistent with what might be expected in the insurance defense arena, 78 percent of the participants reported having 25 or fewer partners in their firms. Only 6 percent were of a size adequate to support 60 partners or more.

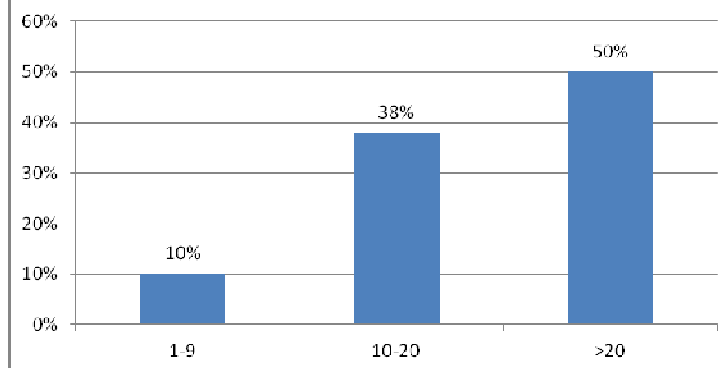
Insurance Defense Focus:

Participants specialized in and were well acquainted with insurance defense work. Eighty six percent reported that more than 46 percent of their firm’s revenues come from insurance defense work. More than half of the surveyed firms derive 70 percent or more of their revenues from insurance defense.

Percentage of Insurance Defense Revenues



No. of Insurance Company Clients

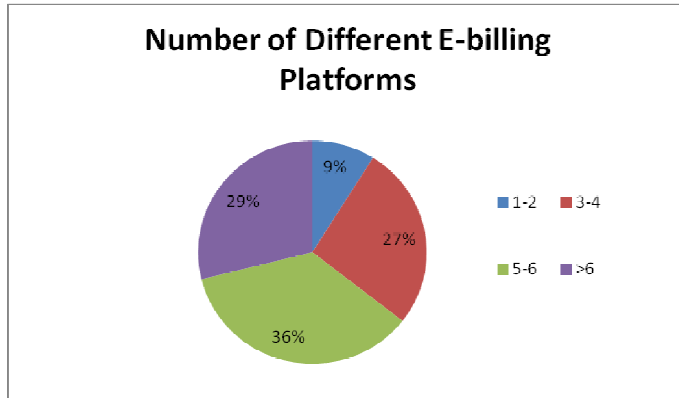


Number of Insurance Company Clients: Participants reported being challenged by the varied processes they have to deploy in the invoice submission process. There is good reason for this, more than half of the respondents reported working with 20 or more insurance carriers.

Study Findings

E-billing software is deeply penetrated across insurance defense law firms

Industry data suggest that legal invoice review platforms have an approximately 30 to 35 percent penetration rate across the insurance carrier industry. In other words, \$1 of every \$3 spent on attorney fees in the industry is flowing through an e-billing platform of some kind. However, the one-to-many relationship of carriers to firms means that insurance defense law firms must contend with multiple e-billing clients and many varied e-billing environments.



Eight out of 10 firms surveyed reported that they work with seven or more clients, each who use some sort of e-billing system to receive invoices.

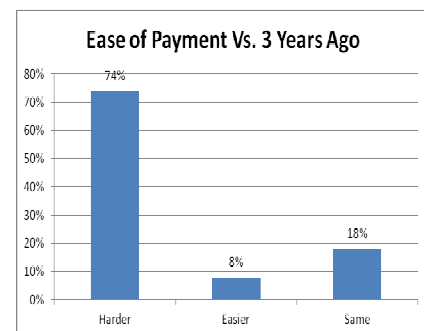
Sixty five percent of firms reported that they must submit invoices through five or more separate e-billing platforms, many of which are then customized uniquely for different clients.

From the law firms' perspective, each customized environment, given that each carrier may have its own billing rules, can in fact represent a "distinct" system in the eyes of a billing department. For example, a firm with only four e-billing clients, using five different platforms, can actually represent 20 or more separate sets of processes, rules and guidelines, all of which must be carefully followed in order to create and submit a "clean" invoice that is not subject to adjustment or rejection.

Law firms reported to us that this complexity can be overwhelming. The ability to overcome this complexity is relevant and is of paramount importance to firms, given the high percentage of overall firm revenue flowing through these systems. Our data suggest that, on average, insurance defense firms are processing 45 to 65 percent of overall revenues through an e-billing environment — an environment that they are required to use in order to be paid for services.

Law firms are struggling with effective invoice submission

More than 70 percent of firm partners reported that it is harder to get paid for their firms' services, when compared with three years ago. Participants reported a myriad of challenges resulting from this difficulty in invoice submission and payment, including delayed payments, higher accounts receivable levels, and the need to invest in non-billable department staff.

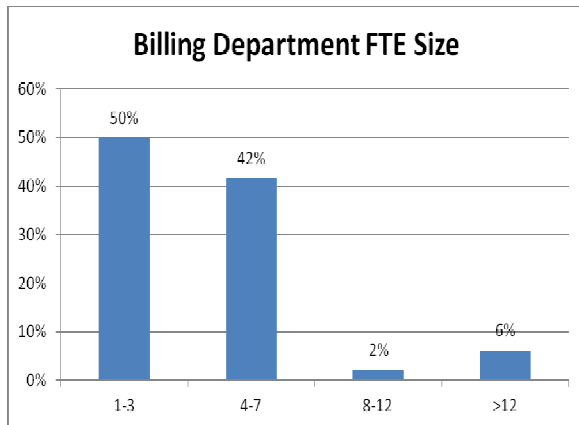


To keep up with industry invoice review trends, law firms have deployed two primary strategies:

- 1) Build and maintain more experienced centralized billing departments.
- 2) Strengthen pre-bill review processes before invoice submission.

Billing Departments

Firms have invested heavily in their billing departments. Ninety percent of the surveyed firms maintain a centralized billing department. Generally the size of these departments corresponded to the overall level of e-billing activity.



Billing department FTE count was split equally between those firms with more than four full-time equivalent staff and those with less.

Salary ranges for more junior billing specialists ranged from \$30,000 – \$45,000 and as high as \$55,000 – \$70,000 for more senior billing managers or supervisors. With overhead factors included, these non-billable resources add significantly to the firms' costs of doing business.

A firm with six billing department FTEs (almost 50 percent of respondents reported four to seven FTEs) is likely to be investing more than \$300,000 in their billing department, roughly equivalent to the anticipated revenue from an associate billable attorney.

Billing departments are growing in size. Almost half, 49 percent reported that their billing department has grown in the last five years. In some cases this growth in FTE count was in contrast to the firm's decreasing revenues. Of those firms who reported billing department increases, 70 percent attributed that growth directly to their expanded requirements related to e-billing.

Law firm partners are increasingly removed from the core billing compliance and invoice submission requirements and processes of their clients

As the complexity of invoice submission has grown, the firms' institutional knowledge of what each client mandates, and what each e-billing platform requires, has shifted to the billing department. Seventy percent of the firms reported that this institutional knowledge now rests firmly in the hands of the billing department staff. While this shift in domain expertise might be seen as a natural progression, given the complex subject matter, it also poses business risk to the firm, whose revenue stream (and client perception of the firm's billing practices) is now increasingly dependent upon the e-billing and auditing expertise possessed by some of the firm's most junior staff.

Law firms and their billing departments – opportunities

Firms experience extremely low turnover in their billing departments. Eighty percent of partners reported turnover of less than 5 percent, with an indication of figures closer to 1 percent. Particularly with smaller firms, these are often staff with close relationships with the attorneys they support.

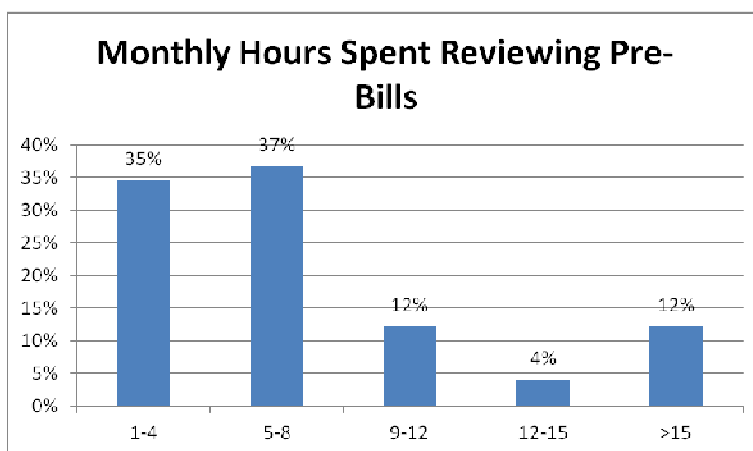
Nonetheless, participants reported frustration with the level of non-billable resources increasingly required by firms to simply manage the business of running the firm. When asked how the firm might adapt to a situation where less billing department resources were required to prepare and submit invoices to clients, 75 percent said that their staff could be repurposed very effectively into other beneficial activities. Twenty-five percent said that they would be more likely to reduce headcount.

Pre-Bill Review Processes

A second area in which firms have focused in order to address the increasing scrutiny on their invoices is in the area of pre-bill review. Almost every survey respondent (98 percent) reported having a pre-bill review process in place. Before invoices are submitted, a partner, supervisor or office manager previews all timekeepers' entries to ensure they meet the client's billing guidelines.

Many attorneys expressed frustration at not having good processes for easily comparing the pre-bill to a client's guidelines. Many varied manual systems are deployed to do this, often relying on written documents and customized fields in the time and billing system.

Often there appeared to be a direct correlation between the sophistication of these processes and overall firm invoice adjustment levels. In other words, if it is difficult to compare the pre-bill against guidelines as it is being reviewed, the higher the corresponding adjustment levels.

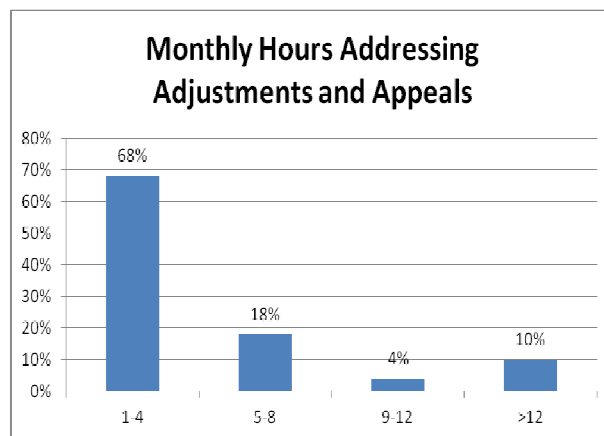


Time spent by firms in the pre-bill process varies widely: This is an important investment of time for billable attorneys. Sixty-five percent reported that they spend five hours or more per month in this process on their own invoices. Anecdotally, this was reported to be an extremely disliked (“unpleasant”) activity. Almost one third of partners (30 percent) reported spending a full billable day or more per month.

In addition to reviewing their own invoices, 75 percent of participants reported that additional time is allocated to reviewing other, more junior and associates’ time. Seventy-one percent reported that these additional pre-bill review activities add one to four hours of time; 19 percent reported that this additional review added five to eight hours of time.

Paralegals, secretaries and office managers spend additional time assisting with invoice preparation: The attorneys polled feel invoice submission and preparation is a time-consuming process, not only for managing and supervisory attorneys, but also for other various firm employees. Paralegals, secretaries and office managers can play a vital role in the invoice submission process. Almost half (47 percent) of respondents indicated that these individuals spend more than five hours a month assisting attorneys with bill preparation and submission, often to respond to inquiries from the billing partner and to clarify or add billable time before the invoice is finalized.

Adjustment and appeals management resources: Once the invoice is successfully submitted, firms must deal with adjustments to those invoices and any associated appeals. Again, partners were varied in their responses to how much of their time is required of them during that process. Generally, it was reported that less of their time is spent on appeals than on getting the invoices ready for initial submission. However, a full 32 percent reported spending five hours or more per month, with 10 percent reporting 12 hours or more.



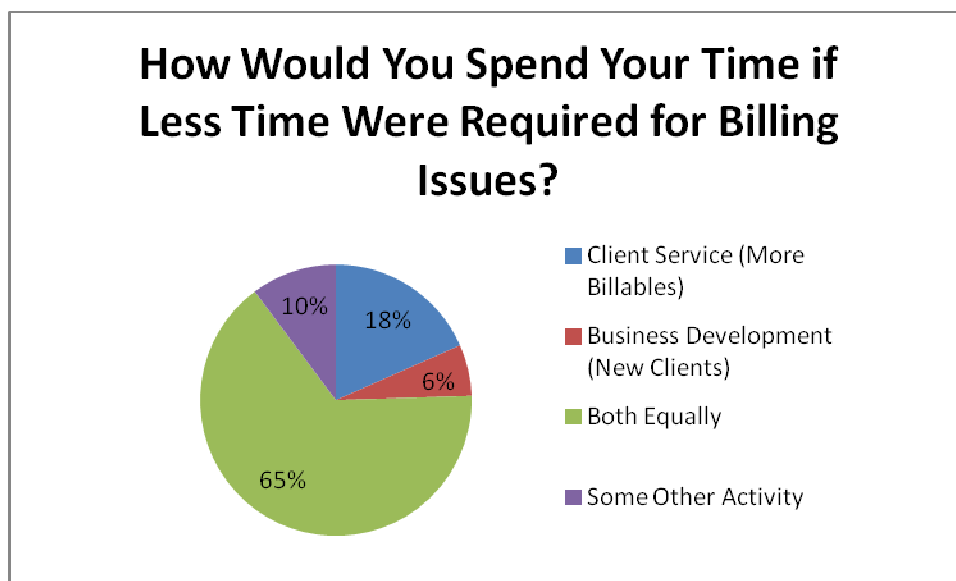
Partners also highlighted that in addition to reviewing the original adjustment, they are required to spend time in actually dealing or managing the appeal of the adjusted invoice line item.

Assigning financial value to the invoice management process: As might be expected, it was difficult for firm Study participants to be exact about the total time they spend performing pre-bill review activities or addressing adjustments or appeals. This is not a currently measured metric in law firms and attorneys generally offered best-estimates of time required for this process. Many felt that they were estimating on the low side, but understandably really didn't know.

However, on average, most partners suggested that, when combining the review of their own time and the review of time being submitted on invoices they are responsible for, as well as the time they spent in addressing adjustments and appeals, it would be "easy" for them to spend 12 to 15 hours a month on the preparation and appeals (total invoice) management process. Some spend more and some less, but, generally, when added across the entire month, this proxy was judged to be "reasonable." A full one-quarter (25 percent) of participants said that they spend more time than their partner colleagues on this activity; 15 percent said they spend less than other partners in the firms.

While this investment of time was generally described as an "annoyance" or "frustration" by participants, relatively few framed this allocation of resources in the context of financial cost. The financial cost can be high, however. A firm with 20 billing partners, at 12 hours a month each, is essentially investing more than 2,800 hours annually in the process — a time-value equivalent to essentially one and a half full-time billing attorneys for the firm.

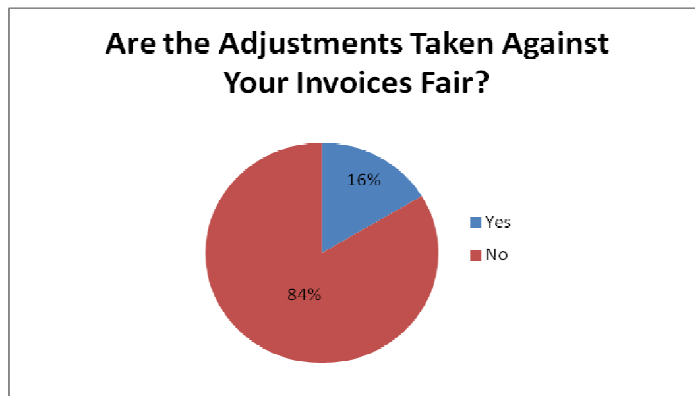
Firm participants wavered somewhat as to whether this time, if eliminated, could be directly translated to more billable time across the firm generally. However, all participants agreed that freeing up this time would result in more labor capacity for the firm. When it came to their own time though, respondents were unequivocal. Ninety percent said that they would spend that time billing more, or on business development activities, or both.



Can law firms keep up with the rapidly increasing scrutiny on their invoices? In our opinion – possibly; however, we believe firms will need to invest more heavily in resources, time, or services to do so effectively.

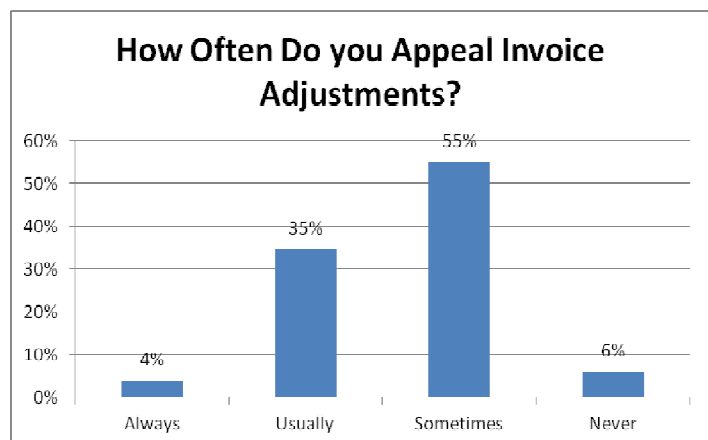
Fundamentally, firms are working hard to keep up with a rapidly changing industry, and with clients that are deploying increasingly sophisticated technology and a larger number of dedicated legal bill review auditors. Whether centralized or third-party based, these auditors are focused exclusively on ensuring that each invoice is 100 percent compliant with the insurance company’s guidelines. Many of these auditors are deeply experienced in invoice review; frequently these are attorneys, though paralegals also play key roles in this environment.

Firms have worked to match these client-side audit resources with more experienced billing department staff. This has proved difficult. While some billing department resources are paralegals the majority are not. Generally none are attorneys. Usually the law firm-side billing staff members are less experienced in invoice audit processes than their client-side counterparts. They are, in a word, potentially “out-gunned.”



Are Adjustments Fair? Perhaps as a result, firms report a high level of frustration with the invoice adjustment process. A full 84 percent of respondents reported that the adjustments being taken against their firm are “unfair.” While there may be many factors for this, an underlying cause may be the lack of peer-to-peer interactions with the auditors making the adjustments.

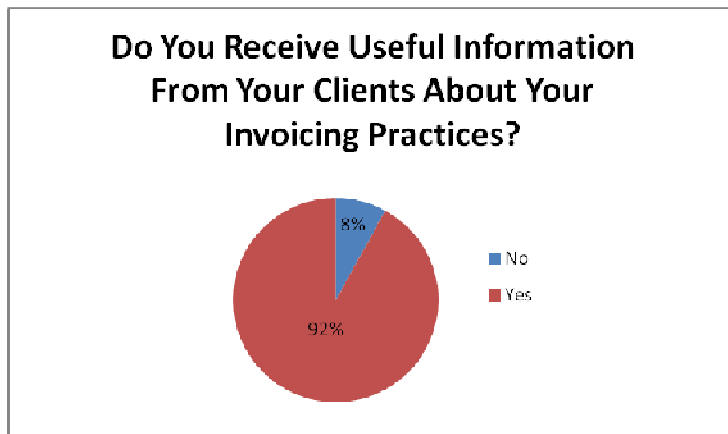
A perception of distrust: The law firms’ clients have reported to us that their desire is simply for a 100% compliant invoice. Law firms view this very differently. Partners perceive that adjustments to their invoices send a message that their client does not trust the attorney or the firm doing the work. Each respondent who commented on this topic felt that these adjustments do not strengthen the relationship between counsel and client.



Appeals management — how often do firms appeal?

Firms reported having a balancing act when deciding to appeal. This is usually because the time required to make the appeal can be as valuable as the adjusted line item. As a result, 61 percent appeal “sometimes” or “never,” whereas 39 percent appeal “always” or “usually.” Firms identified that they would be more likely to appeal adjustments, or at least engage in a more detailed understanding of how they had billed incorrectly, if it required less of their valuable time.

A significant firm challenge: lack of data and metrics about their own billing practices. Firms reported that they do not receive aggregated data from their clients that would provide deeper insight into their firm’s billing practices.



When asked the question, “*In general, do your clients provide the data and metrics they obtain about your firm through their e-billing system back to you?*” Eighty-four percent of respondents said no. Only half of the remaining 16 percent reported they receive data that is helpful to the Firm.

While firms do receive individual invoice-level reports about what is adjusted on a specific line-item or specific invoice, most reported no ability to aggregate that data to better understand how to change their billing practices to become more compliant. Their time and billing systems do not support this function.

The issue of data was a “hot” topic for firm respondents. Many perceived that their clients have information about them that they don’t have. Others felt that having this information could provide a core marketing advantage in that they would be better able to describe their firm’s billing and practice patterns to current and prospective clients.

Can aspects of the invoice preparation and submission process be improved through the use of expert third-party resources or experts? In order to meet increasingly strict and onerous billing guidelines, most medical professional organizations (i.e., medical practices) now use a third party to assist them in preparing the requirements of their payors.

Study participants were asked to comment on whether they see similarities between the legal and medical industries in this respect. Two thirds of respondents saw no core differences between the two industries. The remaining third highlighted several core differences, including differences in the complexity of codes being used in billing and the need for more descriptive

narratives in legal invoices. However, relative to using a third-party in general, no firms identified critical challenges with the concept and several expressed receptivity to incorporating those resources into their current processes.

Have law firm investments in billing department resources and pre-bill review processes, been effective in meeting stricter e-billing and guideline review scrutiny? The answer to this question, in our view, is not entirely.

There are three metrics from this Study that would suggest firms are not being as effective as they might be in adapting to increased invoice scrutiny and more complex invoice submission processes:

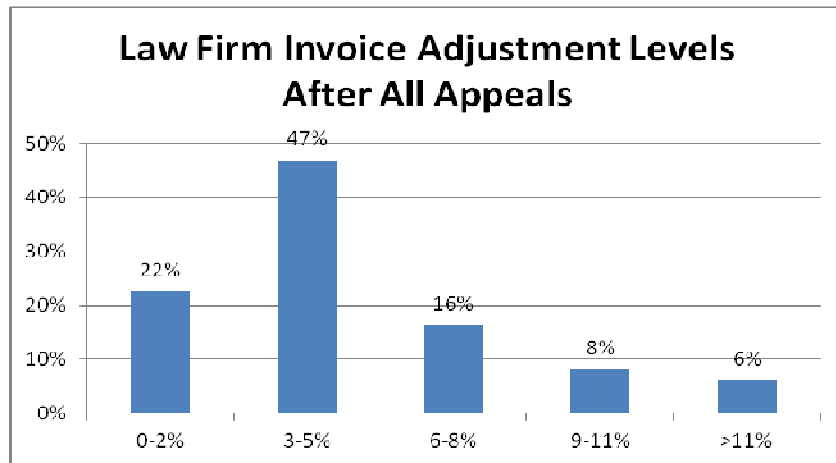
1. **It is getting harder, not easier, for firms to be paid:** 74 percent of firms find it more difficult to get an invoice paid now than three years ago.
2. **Billing departments continue to grow even while attorneys spend more time in the pre-bill process:** This is despite a growth in billing department size (see finding above) and a greater investment of billing partner time in pre-bill process (see finding above).
3. **Law firms continue to experience relatively high invoice adjustment rates.** While there was some variation in reported figures, the majority (47 percent) of firm Study participants reported an overall 3 to 5 percent adjustment level. However, a full 30 percent of firms reported adjustments in excess of 5 percent and 14 percent reported adjustments in excess of 9 percent. These are significant levels of invoice reduction.

Relative to overall adjustment rates we make three core observations:

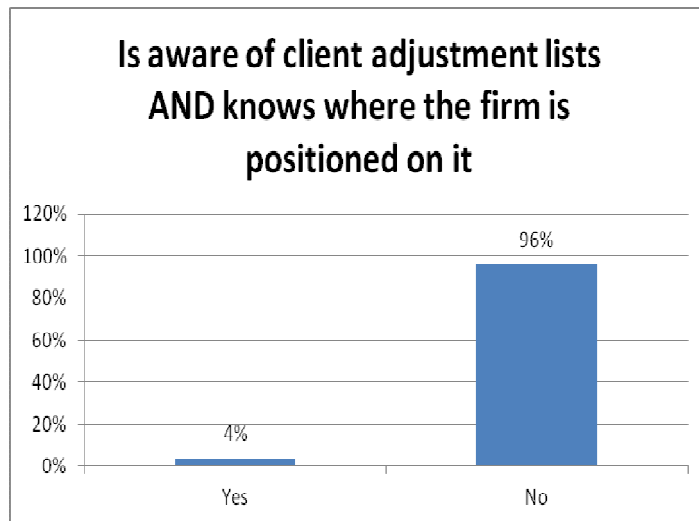
1. First, firms were candid with us in reporting their figures as “estimates.” For those firms who were asked to validate their assumptions, adjustment rates proved to be higher than they originally estimated. The firms’ partners were candid with us in reporting to us that they were surprised to find that adjustments were higher than they assumed. While we anticipate this could be the case with other survey participants, we have no objective way of validating that assumption.
2. Second, all firms reported that, even if their overall adjustment levels were in one range, that each of them has clients whose adjustment levels significantly exceed the average.
3. Lastly, we believe that the Study’s participant pool may have served to hold Study adjustment levels down. This is for two reasons. First, many of the participants are members of the Claims and Litigation Management (CLM) Alliance and therefore tend already to be more sophisticated, more proactive and more advanced when it comes to managing their insurance defense and client relationships, including the billing and guideline compliance aspects of those relationships.

In addition, a number of Study participants self-selected themselves as Study participants by responding to a general LinkedIn Discussion Group inquiry on this topic. Therefore, the respondents were already dealing with or addressing invoice management issues in some way, or had a high level of interest in doing so. In short, we believe that if this particular Study participant pool reported the adjustment levels in the graph below, that adjustment levels for the industry as a whole are higher, and perhaps significantly so.

The reported adjustment levels for this Study were as follows:



Can law firms treat invoice adjustments as merely a cost of doing business? A number of Study participants classified their adjustments as a necessary “cost of doing business”. In one way or another, this was a theme that was echoed repeatedly, sometimes with a general (and perhaps more cynical) suggestion that it would not be possible to achieve a 100 percent compliance rate on invoice submission, either because the guidelines are too vague or because they are interpreted inconsistently by their clients.



While we do not address whether 100 percent compliance would in fact be possible, we would highlight a different business risk for firms relative to their adjustment levels. Specifically, we were surprised to find most law firms unaware of the comparative list of adjustments, by firm, that a majority of firms’ e-billing clients maintain.

When a firm reaches certain threshold adjustment levels several client-side activities can be triggered, including

red-flagging the firm for additional invoice review focus, or marking the firm for retrospective quality audits. Additionally, when clients consolidate their lists of “approved” firms, these adjustment levels can play an important role in client’s evaluation.

Understanding a firm’s relative positioning on adjustment levels is important. Only 36 percent of survey respondents said that they are aware of clients who maintain such lists of relative adjustment levels. Of those who were aware of these lists, only 12 percent knew where their firm stood relative to other peers in the industry. Stated another way, only 4 percent of Study participants had awareness of the lists and also knew where they stood on them.

We commend that 4 percent, and stress that this is an important dialogue for all firms to be having with their clients. In our view, it would be ideal for firms to identify for (and remind) their clients that they have zero adjustment rates and that they are positioned high on these comparative rankings. Simply accepting adjustments as a cost of doing business makes this a difficult strategy to deploy.

For More Information about this Study

We believe this Study to be the most comprehensive review of this subject conducted to date. This Study was authored by Toni Forge, Esq., an advisor with CLM Advisors. Ms. Forge may be reached for any questions about the Study or this Report by writing to toni.forge@theclm.org.