

Defense Counsel Guidelines:

Billing, Reporting and Authorization Guidelines

Billing Guidelines

Providing an aggressive defense using highly skilled and trained attorneys is a fundamental goal at Preferred Physicians Medical (PPM). To attain this goal, PPM strives to pay its attorneys a fee commensurate with their skill. At the same time legal costs are a major component of the premium PPM must charge its policyholders, and PPM is obligated to effectively monitor and manage these costs. Accordingly, the following guidelines have been adopted.

1. Attorney Assignment and Activities

1.1. Assignment of Attorneys and Approval of Staff

PPM has assigned this matter to you individually and not to your law firm. Thus, it is expected that all services performed on this file will be performed by you personally or delegated appropriately to a pre-approved partner, associate, paralegal, or legal assistant. **PPM will not pay for the services of attorneys and other individuals whose work on a particular case has not been approved.** Since this approach means that you are thoroughly familiar with the file, interoffice conferences and file review should not be necessary.

As the attorney assigned to the file, it is your exclusive responsibility to:

- Meet with our policyholder
- Attend key depositions, including the primary plaintiff(s), our insured(s), all co-defendants, all anesthesia experts and any additional experts whose reports implicate the anesthesia care
- Attend mediations and settlement conferences
- Act as lead counsel at trial

1.2. Additional Staff at Trial

The use of additional staff at the time of trial, including an attorney, must be pre-approved by PPM.

Partners and associates will be reimbursed at the firm's paralegal billing rate, unless there are extenuating circumstances that warrant an additional attorney attending trial. Requests to depart from this guideline must be submitted to PPM prior to trial and will be evaluated on a case-by-case basis.

1.3. Attorney Scheduling Conflicts

PPM expects the assigned attorney to appear for our insured(s) during the litigation process. We realize that on rare occasions conflicts may develop that require the presence of other counsel from your firm. **Specific approval from PPM is required before another attorney will be allowed to appear on an individual case if a team member has not been pre-approved.** Additionally, you may not assume that merely because you have received approval to utilize a particular attorney to appear in one case that you have PPM's

approval to utilize that individual in another case. If another attorney is authorized to appear for you and our insured will be present, you must contact our insured to explain who will be appearing for you and why. **Utilization of another attorney should never result in double billing.**

Among the staffing practices PPM finds unacceptable and will not compensate for are:

- Paying for more than one attorney or other staff member to perform the same task
- Supervision or review of another attorney's work
- More than one attorney attending depositions, interviews or court appearances
- Inter-office communications

2. Attorney Fees and Expenses

2.1. Hourly Rates

PPM will pay invoices pursuant to the fee schedule on record with our office. Adjustments in your fee schedule **must be submitted in writing and approved prior to implementation.** Adjustments in your fee schedule will be implemented only after approved in writing.

2.2. Legal Expenses

Routine expenses charged by your firm should be included on your invoices. Expenses your firm has incurred with outside vendors, including court reporters and experts, may, with prior approval, be billed directly to PPM. Otherwise, these expenses should be included on your invoices.

2.3. Travel Expenses

PPM will reimburse you for coach class travel and reasonably priced hotel accommodations.

Receipts **must be submitted** for all hotel charges. Depending on the travel area, moderately priced hotels in most major metropolitan areas are defined as those charging between \$150 and \$250. Additional hotel services, such as in-room movies, should not be included on invoices to PPM.

Receipts **must be submitted** for all airline tickets and other transportation costs that exceed \$25. All travel expenses must be itemized.

2.4. Meal Expenses

PPM will reimburse you for out of town meal expenses. Per person meal expenses, with gratuity, should be reasonable in relationship to the area and purpose of the travel. Receipts **must be included** for all meal expenses and should identify any additional persons whose meal expense is included. Persons included on meal expenses should be limited to those individuals participating in the defense of the PPM policyholder.

2.5. Mileage Expense

When requesting reimbursement for mileage, it will be necessary to indicate the number of miles traveled as well as the destination. Mileage will be reimbursed at the current Internal Revenue Service rate.

2.6. Submission of Demonstrative Evidence

Prior approval **must be obtained** from PPM before ordering or purchasing demonstrative evidence. All books and exhibits paid for by PPM become the property of PPM and **shall be forwarded** to us at the conclusion of the case.

2.7. Shared Defense Costs

On cases where PPM and another company are sharing defense costs, PPM, without prior approval, will not pay for reports that are only directed to or conferences that are only held with the representatives of another company.

2.8. Experts

PPM has developed a substantial expert database. Counsel **must obtain written authorization** from PPM before retaining any expert witnesses. Authorization requests should be accompanied with a copy of the potential expert's CV and fee schedule. **If such approval has not been obtained, then the fees of these individuals will be deducted from your bill.** Unless prior approval is obtained, only one supportive expert per specialty will be approved.

Counsel should limit initial reviews to a **maximum of 15 hours**.

2.9. Copying

PPM will pay copying charges at a maximum rate of \$.15 per page. You **must indicate** on your invoice the items copied, the reason for the copies and the number of pages copied.

2.10. Faxes and Overnight Mail

Counsel should minimize the use of fax transmissions, courier services or overnight mail. Expenses of this nature **must be itemized** so that we may evaluate the appropriateness of the use.

3. Billing

3.1. When to Submit Invoices

- You may submit invoices on each file every three months on individual file assignment dates or bill all files at regular quarterly intervals, e.g., January 1, April 1, July 1 and October 1
- Invoices may be emailed to ClaimsInvoice@ppmrrg.com and must include case name and PPM file number
- Final bills should be submitted within 30 days following receipt of final documents

3.2. Invoice Format

All bills submitted for payment should contain the following:

- Date of Service
- Name of attorney or other individual performing the service and their position with the law firm
- Description of the service performed
- Time spent performing the service

- Actual amount billed for each service
- Hourly rate for each individual
- Itemization of all expenses
- Billing Summary

Example:

Initials	Billed by	Status	Total hrs	Rate	Total billing
JJ	John Jones	Partner	10	150.00	1,500.00

3.3. Automatic Payment

Automatic payment is available by completing a PPM ACH Direct Deposit form. To obtain a copy of the form please contact PPM's Finance Department at 1-800-562-5589.

4. Compliance with Billing Guidelines

If your services or expenses do not comply with PPM's billing guidelines, those services and expenses in violation will be deducted from your bill. In those instances when you have been asked to adjust or resubmit a bill due to your noncompliance with our billing guidelines, PPM will not pay for your time to review that bill or to come into compliance with our billing guidelines. This includes telephone calls and correspondence.

Reporting & Authorization Guidelines

Files are assigned to counsel with the approval of PPM's Claims Supervisor. A Claims Attorney or Claims Specialist manages each file assigned. All communications and correspondence should be directed to this individual. Any concerns regarding file management activities may also be directed to PPM's Claims Supervisor.

Status Reports

In order to satisfy our need for information and to meet the requirements of our reinsurer, PPM has developed a standardized reporting format. An initial report should be submitted within 60 days following assignment of the file. Your second report should be provided 180 days following assignment (120 days after your initial report) and your third report 300 days following assignment (120 following your second report). Subsequent reports should be provided every 180 days thereafter. The dates for the first year reports are contained in the assignment letter. Declaration pages are included with the assignment letter.

We recognize that in some cases and in certain jurisdictions, these reporting time frames may not correspond with file developments. Attorneys in such circumstances may obtain written permission to modify these time frames. **Our reserving requirements, however, require us to establish an appropriate reserve within one (1) year from the date of claim. Counsel is expected to provide a comprehensive status report prior to that time. Estimated potential settlement value and jury verdict are required in the 300 day report.**

We prefer that our attorneys "update" these status reports by highlighting those areas in the report that have been modified.

*Example: Our evaluation of the likelihood of a defense verdict in this case is substantial. **The recent dismissal of the surgeon increases the likelihood of a defense verdict given our ability to point to an empty chair at trial.***

Status reports should be complete. Please restate information provided in earlier status reports rather than referring back to the earlier document.

Status Reports are an insurance company's primary tool for establishing proper reserves. It is extremely important to establish an appropriate reserve within one (1) year from the claim date. We have adopted these reporting time frames to reflect our reserving needs. Defense counsel, therefore, is expected to provide a complete assessment within these time frames. This includes providing your evaluation of jury verdict potential, likelihood of verdict and settlement value. In addition to providing detailed information regarding a particular file, counsel is also encouraged to support evaluations with experience and information from other sources.

Legal Documents

Cost and file space efficiency dictate that we reduce the level of correspondence and documents received from defense counsel. Only the following legal documents should be routinely provided:

- Plaintiff's Petition or Complaint
- Amended Petitions or Complaints
- Answers to Petitions and Complaints and their amendments

- Any substantive motions
- All closing documents, including any journal entry of judgment, dismissals, and settlement documents
- Plaintiff's responses to interrogatories

Depositions

Depositions remain an important aspect of our file evaluations; defense counsel should routinely provide the following depositions, preferably in miniscript, along with a deposition summary:

- Plaintiff(s)
- Defendant(s)
- Plaintiff's anesthesia expert(s)
- Defendant's anesthesia expert(s)

Other depositions should be reported in deposition summaries. Complete depositions may be requested based on your deposition summaries. Significant deposition testimony should be briefly summarized in status reports.

Important Developments

Any significant development should be reported **immediately** to PPM. A significant development includes any fact that substantially changes a previously reported evaluation of the settlement or verdict potential. All settlement demands, bad faith letters, offers of judgment, etc., should be **immediately** forwarded to our attention.

PPM's claims personnel may be reached 24 hours a day by calling 1-800-562-5589.

Authorization of Legal Expenses

Defense counsel must obtain authorization prior to engaging expert witnesses, ordering surveillance, or scheduling independent medical examinations.

Important Dates and Scheduling Matters

Notify PPM immediately regarding trial dates. Settlement conferences or mediations that should be discussed in advance of scheduling. Given that our policyholders retain the right of consent, settlement or mediations should be scheduled to accommodate their schedule. **PPM requires its policyholders to attend settlement and mediation conferences. Defense counsel should not excuse the policyholder without the express authorization of PPM.**

Structured Settlements

Structured settlements **must** be part of settlement negotiations. PPM will only place structured settlements through authorized and approved brokers. Brokers must be licensed to do business in the State of Kansas and companies must be approved for business by PPM. All structures must be placed with life companies that: (1) meet or exceed PPM's minimum rating requirement (A.M. Best A+ Class 8); (2) agree to utilize Uniform Qualified Assignment

Documents; and (3) agree to submit to Kansas Law, or the law of the jurisdiction in which the case is venued. Defense counsel should obtain authorization prior to engaging a structured annuity broker. PPM will not structure a settlement after a settlement agreement has been reached.

Settlements

Settlement requires written consent of the policyholder. PPM also requires:

- A copy of the conditional payment letter if the plaintiff/patient is a Medicare beneficiary
- If there is a CMS lien, two checks will be issued, one to CMS and the balance to plaintiff and his/her attorney
- A confidentiality clause
- A copy of the proposed settlement agreement for approval
- W-9 from plaintiff's law firm
- Instructions on how to make the check(s) payable