

Recovery & Resolution

A LEGAL NEWSLETTER FOR
HEALTH CARE PROFESSIONALS



Graham Lundberg & Peschel *Founded 1979*

Vote "Yes" To Approve Referendum 67

Referendum 67, which addresses consumer rights and insurance companies, will be on the ballot in November. The Insurance Fair Conduct Act was passed by the legislature in 2007 and signed by Governor Gregoire. The insurance industry and its paid signature gatherers challenged the new law, and it is now a ballot issue in the upcoming election. Graham Lundberg & Peschel encourages its clients and friends to vote **YES** on Referendum 67.

Referendum 67 requires insurance companies to pay legitimate claims in a timely manner and holds them accountable if they do not. When people buy insurance and pay their premiums on time, all they ask in return is that the insurance companies honor their commitments to policyholders. If voters approve Referendum 67 in November, the insurance industry will have an incentive to deal with policyholders honestly. Referendum 67 covers claims related to homeowners insurance, auto insurance, long-term care insurance, property insurance, and small business insurance.

The coalition in support of the Approve 67 campaign continues to grow. Recently, the Washington Education Association (WEA), the Washington State Council of Firefighters and the Puget Sound Alliance for Retired Americans have all joined the Washington State Chiropractic Association, the Washington State Trial Lawyers Association and 24 other organizations in the effort to get Referendum 67 approved.

The insurance industry wants voters to reject Referendum 67. The insurance industry raised \$6 million to mount a campaign to confuse voters about which campaign is truly supported by genuine consumer groups. For

example, the insurance industry campaign – Reject 67 – has created a phony consumer website as a companion to its massive television advertising campaign.

Washington's Office of the Insurance Commissioner (OIC) receives more than 4,000 complaints each year regarding insurance industry practices designed to reject legitimate claims, including claims from homeowners, property owners, small business owners and injured citizens. However, the OIC does not have the legal authority to represent individuals in disputes with their insurance companies. Passing Referendum 67 would give citizens and consumers a level playing field with the big insurance companies.

Visit www.Approve67.org for more information or to donate to the campaign and vote **YES** to Approve Referendum 67 on the November ballot.

Finding Insurance Coverage

Is there insurance to cover a loss? When a person has been injured due to the fault of another, there may be multiple sources of insurance available. The first place to look for insurance is first-party insurance. Does your patient have personal injury protection (PIP) or medical payments coverage? Was the patient on-the-job so that Labor & Industries or another worker's compensation plan will cover medical expenses and wage loss? Was your patient a pedestrian or a bicyclist, in which case they can use

continued on page 3

Inside
this
month's
R&R...

The ABC's
of Insurance
Coverage
on page 2

Seminar
Schedule
on page 3

Plan to Attend This Free Educational Seminar...

Unscrambling the ABC's of Insurance Coverage
See page 3

The ABC's of Insurance Coverage

Insurance coverage is something that everyone needs, but few people understand. We insure our automobiles, our motorcycles, our boats, our homes, our rental properties, and our lives. Most people don't take time to think about insurance coverage until they make a claim, and need coverage.

Most personal injury insurance claims arise from automobile collisions, pedestrian and bicycle versus automobile collisions, and premises liability (trip or slip and fall claims). Insurance can be classified as "first-party," which includes personal injury protection (PIP), medical payments coverage, uninsured and underinsured (UM/UIM) motorist coverage, and health insurance. Insurance can also be classified as "third-party," which includes liability coverage belonging to the at-fault party, or tortfeasor, and in some instances, personal umbrella policies (PUP).

Washington has a mandatory insurance law that requires all automobile drivers to carry minimum liability insurance in the amount of \$25,000. PIP and UM/UIM are not mandatory, however, the coverage must be rejected in writing by anyone purchasing an insurance policy. The following are common definitions and issues that arise in both the first-party and third-party arenas.

Personal Injury Protection (PIP)

Coverage under a first-party insurance policy pays for reasonable and necessary medical expenses up to the dollar amount specified in the policy, or up to a period of three years from the date of loss, whichever occurs first. It will also pay for income loss for 52 weeks up to the dollar amount specified under the policy. There is also typically coverage available for "loss of services," which will include necessary house work, yard work, or other services that a person must pay someone else to do, and if a healthcare provider directs the

patient to stop such activity in order to heal. Keep in mind that fault is generally not relevant to PIP claims, and that the minimum PIP medical payment coverage in Washington is \$10,000 per person.

If someone is driving his or her own vehicle, or the vehicle of another person with permission, then that person can make a claim for PIP benefits under the policy of insurance on that particular vehicle. In the case of a person driving another person's vehicle, if that vehicle does not have any PIP coverage, or if the amount of PIP coverage is insufficient to cover actual medical expenses, then the driver can make a claim for PIP benefits under his or her own personal injury protection policy.

Similarly, a passenger in a vehicle can make a claim for PIP benefits under the policy of insurance on that vehicle. If the vehicle does not have any PIP coverage, or if the PIP coverage is inadequate, then the passenger can make a claim for PIP benefits under his or her own policy.

Pedestrians or bicyclists that are struck by a motor vehicle are entitled to make a claim for PIP benefits under the insurance policy of the vehicle that struck them. As is common in cases of car versus pedestrian or bicycle collisions, the PIP limits may be insufficient to pay all the medical bills. So when the PIP policy limits are exhausted, the pedestrian or bicyclist can then make a claim under his or her own personal PIP policy.

Health insurance should be utilized if there is no PIP coverage available, or if PIP has been exhausted. A health insurance carrier will often require that an accident questionnaire be completed by their insured, and that proof of no PIP or PIP exhaustion be provided before it will begin processing accident related bills.

If someone is on the job at the time of an automobile or pedestrian accident, the primary source of medi-

cal payments will be through the Department of Labor & Industries or other worker's compensation carrier.

Medical Payments Coverage

Some automobile insurance policies specify first party "medical payments" coverage, rather than PIP. The minimum limits vary from state to state, but the processing of payments works in the same way as PIP.

In a premises liability case, such as a trip or slip and fall at a home or business, there will typically be a small amount of medical payments coverage available under the homeowner's, renter's or business owner's liability insurance policy. This coverage is often not utilized because many people do not realize such coverage exists. The amount available is often only \$3,000 to \$5,000, but should be used in any premises injury case. Many of these medical payments policies dictate that any claim for payments must be made within one year following an incident; therefore it is important to find out the nature and extent of any available coverage immediately after an incident.

Uninsured/underinsured Motorist Coverage

Uninsured/underinsured motorist coverage is also a first-party insurance coverage. It is available to pay for an injured person's damages in situations when the at-fault driver did not carry liability coverage, or when the at-fault driver's liability coverage is insufficient to pay all damages. Unlike PIP, issues of fault are relevant to UM/UIM claims. UM/UIM coverage is typically the same dollar limit as the liability coverage under the same policy.

Sometimes uninsured/underinsured motorist coverage can be found under an employer's policy if the accident victim was driving, or was a passenger in, an employer owned vehicle at the time of the accident.

Third Party Coverage:

Third-party coverage is coverage
continued on page 4





Finding Insurance Coverage, continued

the PIP coverage of the at-fault party? Was your patient a passenger in a vehicle where they can use the PIP coverage on the vehicle as primary coverage and then their own PIP coverage, if they have insurance on their own vehicle? If there is no PIP or medical payments coverage available, does your patient have health insurance or Medicare benefits?

First-party coverage is critical to allow your patient the financial means by which to obtain all of the healthcare treatment necessary to reach full recovery. A thorough investigation is necessary to determine the full extent of any first-party coverage and the order in which it should be utilized.

After you find PIP coverage, the next question is whether there is third-party coverage available to cover a loss. A thorough investigation is necessary to determine all potential sources of third-party coverage. Typically, in a motor vehicle collision the at-fault party has insurance, but sometimes they are uninsured. In that scenario your patient can use their uninsured motorist coverage (UM) which will step into the shoes of the at-fault party and pay the claim as if they insure the at-fault party.

What if the at-fault driver was borrowing a vehicle but there was no insurance on the vehicle? If the at-fault driver had his or her own liability policy for a personal vehicle, such policy may come into play to cover the loss. If a borrowed vehicle had liability insurance, and the driver that borrowed the vehicle also had personal insurance, there may be two layers of third-party coverage available, if needed for your patient to make a full recovery. Having these two layers of third-party coverage is important when your patient has sustained significant loss, such as

injuries that result in surgery or permanent impairment.

What if your patient was a passenger in a vehicle and the driver of that vehicle was at-fault? Your patient will be able to bring a third-party claim against the at-fault driver, but also may be able to use the at-fault underinsured motorist coverage if the at-fault driver's bodily injury coverage is exhausted. This will depend on the insurance policy language, which will need to be reviewed carefully to determine whether the insurance company policy will allow both coverages to be utilized for the same incident.

What if your patient is injured on-the-job? At first glance that might look like your patient only has a worker's compensation claim. However, a skilled attorney should be asked to investigate whether there is a potential third-party claim that can be made. If your patient was a temporary employee and injured on-the-job, they may be able to bring a claim against the company for which they were working because their true employer is a temporary agency. The claim can be made if the company where they were working was at-fault for some reason. A good example is when a person gets sent out on a job to work in a warehouse or industrial setting and becomes injured due to lack of proper safety training. In that case, the company where they were working may be at-fault for failing to provide adequate safety training.

The attorneys at Graham Lundberg & Peschel have decades of experience and can fully evaluate insurance coverage issues for your patients. We welcome the opportunity to work with your patients in order to allow them to fully recover from any loss caused at the fault of another person or party.

UNSCRAMBLING THE ABC'S OF INSURANCE COVERAGE

Graham Lundberg & Peschel welcomes you and your office staff to attend a **FREE** Educational Seminar.

Join us in a discussion regarding:

- **A PIP adjuster's perspective on reasonableness and necessity of treatment**
- **What the PIP carrier needs to make the decision to pay your patient's bills**

This is one seminar you cannot afford to miss! Seating is limited so register today!

Wednesday, **October 10**
Tacoma-La Quinta Inn

Thursday, **October 11**
Renton-Holiday Inn

Thursday, **October 18**
Everett-Holiday Inn

Thursday, **October 18**
Port Orchard-McCormick Woods Country Club

Thursday, **October 25**
Seattle-Best Western Executive Inn

Thursday, **November 1**
Bellevue-Red Lion Inn

Plan to attend this informative seminar! Seminar registration form included in this issue.

- All Seminars: 12:30 – 2:00 pm
- Complimentary Lunch Will Be Served
- Doctors of Chiropractic, Massage Therapists, and Physical Therapists will earn 1.5 CE credits
- Registration is limited to four attendees per office



We are a team of legal professionals working together to advocate for the injured while being recognized in the community for providing the highest level of service.

**CONVENIENTLY
LOCATED**

For the convenience of your personal injury patients, we offer several meeting locations throughout Puget Sound and Peninsula communities. Attorney consultations are encouraged and always free.

- Auburn**253-931-1111
- Bellevue**425-827-1111
- Burien**206-241-1708
- Everett**425-252-1111
- Federal Way** ...253-946-1111
- Gig Harbor**253-853-5005
- Lacey**.....360-786-1717
- Lakewood**253-274-1111
- Lynnwood**425-775-1111
- Marysville**360-658-1111
- Port Orchard** ..360-876-5005
- Puyallup**253-845-1112
- Renton**425-235-1111
- Seattle**206-448-1992
- Silverdale**.....360-876-5005
- Tacoma**253-627-7701

Or Call Toll Free

North Puget Sound area including Island, Skagit, King, Whatcom & Snohomish Counties
800-422-4610

South Puget Sound area including Pierce, Kitsap, Mason & Thurston Counties
800-273-5005

or visit us online...

www.glpattorneys.com

Attorneys

John M. Graham
Scott F. Lundberg
Brian J. Peschel
Kenneth B. Golden
Cydney Campbell Webster
John D. Webber
Sean A. Ayres
Molly K. Crowley
Tara L. Eubanks
James F. Gooding
Carrie D. Umland
Rodney G. Zerr

Paralegals

Patricia Clanton
Patti Cryder
Leslie Gesterling
Judy Hanson Earle
Maya Jenkins
Grace Stephens
Heather Webb

Administration

Annie Adamson
Anne Bowers
Regina Bronson
Mitch Bylin
Melissa Clune
Melissa Collins
Neil Diemer
Anna Maria Gameros
Teresa Garcia
Lynne Golden
Aleena Hodges
Andrea Kato
Heather Kelly
Cari Main
Jackie Maniulit
Lindsey Martin
Becky Moilanen
Martha McDonald
Melanie Shotts

The ABC's of Insurance Coverage, continued

provided by the at-fault driver's insurance company. This is a liability insurance policy. Like UM/ UIM coverage, issues of fault are relevant to liability claims. The minimum liability insurance coverage for an automobile policy in Washington is \$25,000. Liability insurance is mandatory.

Liability insurance coverage for work vehicles and commercial vehicles (semi-trucks) typically carry higher liability limits, usually of \$1 million.

Liability coverage for homeown-

ers and businesses will vary, but the amount of coverage available is typically \$300,000 for a homeowner's policy, to \$1 million or more for a business.

Personal Umbrella Policies (PUP)

Many people are now wise to purchase a personal umbrella policy (PUP). This is a supplemental policy offered as an excess layer of liability coverage. This excess coverage is excess to all other liability policies held by the policy holder, including any automobile, homeowner's and renter's policies.



Attorneys at Law

500 John Street
Seattle WA 98109

PRSR STD
US POSTAGE
PAID
PERMIT #34
SEATTLE WA