

# Recovery & Resolution

A LEGAL NEWSLETTER FOR  
HEALTH CARE PROFESSIONALS



Graham Lundberg & Peschel *Founded 1979*

## How You Can Help PIP Carriers Understand Your Reasonable and Necessary Care

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month's  
R&R...

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A typical personal injury protection (PIP) adjuster has over one hundred files to manage, and some can have several hundred. The easier you make the job for the adjuster, the better chance your patient has to have his or her bills paid timely and fully under any available PIP coverage.

Remember, WAC 284-30-395(1) provides that a PIP carrier can deny benefits for only four reasons: the services are *not reasonable*, the services are *not necessary*, the services are *not related* to the motor vehicle collision, or the services were *not incurred within three years of the accident*. The terms

“reasonable” and “necessary” are not further defined under the law.

What is considered reasonable and necessary is obviously debatable. However, you can establish a clear understanding for the PIP adjuster as to why the treatment your patient is receiving is reasonable, necessary and related to the accident or accidents that caused the injury you are treating.

It is important that you, as a lead health-care provider, take charge and educate the PIP adjuster about the medical case on his or her desk:

- When you first see a patient who has
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Introducing a New Seminar Topic...

Unscrambling the ABC's of Insurance

See page 3

# PIP Arbitration – A Case Study

It is not uncommon for insurance companies to deny PIP benefits under an insured's policy, claiming that the medical expenses for treatment are not reasonable, are not necessary, or are not related to injuries caused by the particular motor vehicle collision at issue. Oftentimes this position by the insurance carrier goes unchallenged, and any bills that are not paid by PIP are held in abeyance pending resolution of the client's third-party claim. Even though insurance companies have started to cut off PIP payments very early in the process, your patients have a recourse to litigate these disputes under PIP arbitration clauses contained in most automobile insurance policies.

PIP arbitration clauses typically provide that any disputes about benefits to be paid shall be resolved by either a single arbitrator or a panel of three arbitrators. In a recent case, our client had a long history of neck and back problems, but she had generally maintained an active and energetic lifestyle due to regular maintenance treatment with her chiropractor. Unfortunately, she was involved in a rear-end motor vehicle collision, after which she developed severe symptoms, including numbness and tingling down both of her legs. An MRI confirmed a moderate disk herniation, for which surgery was recommended.

While the PIP carrier readily

paid the initial treatment bills of approximately \$3,500, it balked when it received word of the recommended surgery. Instead of requesting any reports or detailed information from the client's treating health-care providers, the insurance company proceeded with obtaining all of the client's past medical records, by which it confirmed the history of neck and back symptoms. Conspicuously absent from the records covering nearly 20 years was any reference to complaints of radicular symptoms in the lower extremities. Nonetheless, and not unexpectedly, the PIP carrier claimed that the past history was the reason that the client needed surgery, not the trauma from the motor vehicle collision. Further PIP benefits were, therefore, denied.

An immediate demand for PIP arbitration was made. A panel of three prominent attorneys was selected to serve as arbitrators, and discovery commenced between the parties. Through the course of discovery it was revealed that the

insurance company had not even had the client's records reviewed by a physician when it decided to terminate benefits.

Instead, it was relying exclusively on the opinion of the PIP adjuster, who had no formal medical training or expertise!!!

After several delays, all of which were precipitated by the insurance company, the hearing finally took place before the arbitrators. While the evidence presented in the case consisted exclusively of records and declarations from the health-care providers, the hearing took nearly five hours to complete because of extensive oral arguments presented by both sides. Curiously, by the time of the hearing, the insurance company did present a report generated by a local orthopedic surgeon after a records review. As would be expected, this doctor, hired by the insurance company, was of the opinion that the client's need for surgery was not related to the motor vehicle collision. However, it was discovered that the insurance company doctor

had not been provided with complete records and, in some instances, had been reviewing records from a different patient!!!

The arbitration panel took very little time to decide that all of the client's treatment, to include her surgery and her nearly \$25,000 in medical expenses, were reasonable, necessary and

*continued on page 4*





## First Party Insurance, from page 1

PIP, make sure that the patient completes and promptly returns a PIP application for benefits. Make sure the patient clearly documents all injuries and pain complaints in the application. This helps establish relationship of injuries to the accident.

- Do a thorough initial examination and establish and follow a treatment plan for your patient. Make sure to document ALL injuries and pain complaints, even if they are to areas of the body that you will not be treating. If your patient has cuts, abrasions or bruising from an accident, document those and photograph them, if possible. This again helps show relationship to the accident. Document that care is necessary because the patient has shown improvement in his or her condition, when applicable.

- Make sure that your treatment notes are legible. If you use shorthand or codes, provide a key with each set of records submitted.

- If your patient is also seeing his or her family medical doctor, make sure you know what treatment that doctor is providing and make sure that there are no conflicting opinions on progress to treatment and expected maximum medical improvement dates. This will support reasonableness of care.

- Refer your patient to other medical care providers as needed, and take charge as the lead health-care provider. For example, if your patient states that he or she has fear of driving or anxiety about being in a car, consider a referral for therapy, and document the need for such a referral. Make sure to follow up on the referral and make sure the patient is receiving treatment and that the treatment is helping. Again, this supports reasonableness of care.

- Perform regular re-examina-

tions and show how treatment and any referrals for other treatment modalities are helping your patient. This supports necessity of treatment to put the patient back to pre-injury status.

- Make sure to have a target maximum medical improvement date, subject to further re-examination.

- Make sure that you are billing on the proper HCFA form and that proper CPT codes are used. This makes the adjuster's job easy when their computer programs analyze treatment based on CPT codes.

- Make sure your treatment notes correspond to the billing and the CPT codes. If you use a CPT billing code for chiropractic manipulation of 3-4 regions, make sure that your chart notes reflect this.

- If your patient's condition is aggravated by a normal activity of daily living or work activity (such as lifting a laundry basket, doing yardwork, or sitting in front of a computer), be careful to explain that the aggravation is related to the original injury, rather than any new injury related to the activity. This will support the relationship of any injury to the accident.

- Promptly respond to PIP carrier requests for a current treatment plan and expected release dates.

- Make sure your patient follows all recommended treatment. Gaps in treatment are an invitation for an insurance medical examination. Any gaps create issues of reasonableness and relationship to the accident.

If a PIP adjuster begins to question treatment or delay payment of bills, make sure your patient consults a qualified attorney for assistance. A good attorney can help prevent termination of PIP benefits if problems are addressed early on.

## EDUCATIONAL SEMINARS—NEW TOPIC!

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

**Join us in a discussion regarding our:**

### Unscrambling the ABC's of Insurance

**This is one seminar you cannot afford to miss! Sign up today.**

Thursday, **October 14**  
**Everett** – Inn at Port Gardner  
**New Location!**  
 only a few seats left!

Wednesday, **October 20**  
**Olympia** – Olympia Country Club

Thursday, **October 21**  
**Bellevue** – Red Lion Bellevue Inn

Wednesday, **October 27**  
**Tacoma** – Cliff House Restaurant

Thursday, **October 28**  
**Federal Way**  
 Verrazano's Restaurant

Thursday, **November 4**  
**Renton** – Holiday Inn

Wednesday, **November 10**  
**Steilacoom** – E.R. Rogers Mansion

Thursday, **November 11**  
**Port Orchard**  
 McCormick Woods Country Club

Thursday, **November 18**  
**Seattle**  
 Best Western Executive Inn

Enclosed is an RSVP form. Plan to attend this informative seminar!

- All Seminars: 12:30 – 2:00 pm
- Complimentary Lunch Will Be Served
- This Seminar is for Doctors, Therapists, and their staff!
- Doctors of Chiropractic, Massage Therapists and Physical Therapists will earn 1.5 CE credits
- Seating is limited so register early!





**W**e 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.

**Our Attorneys**

John M. Graham  
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**Our Paralegals**

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 Grace Stephens  
 Diana Tennison  
 Catherine Torkelson  
 Lisa Traudt  
 Heather Webb

**Our Administration**

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 Trish Driver  
 Ann Harris  
 Heather Kelly  
 Martha McDonald  
 Becky Moilanen  
 Lucinda Pieczatkowski  
 Tom Reger  
 Erin Roudybush

**PIP Arbitration—A Case Study, from page 2**

causally related to the motor vehicle collision at issue in the case. The PIP carrier paid the balance of its \$10,000 in PIP medical coverage, and it was forced to pay all of the costs associated with the PIP arbitration proceeding.

The PIP arbitration proceeding in this particular case was conducted in a very cost effective manner for the client, and she was

quite satisfied with the result. Of course, this case represents just another example of how the attorneys at Graham Lundberg & Peschel work diligently and relentlessly on behalf of our clients. You can refer you patients to our office with confidence, knowing that they will receive the best legal representation available in the State of Washington.

**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
- Lakewood** . . . . .253-274-1111
- Lynnwood** . . . . .425-775-1111
- Marysville** . . . . .360-658-1111
- Olympia** . . . . .360-786-1717
- Port Orchard** . .360-876-5005
- Puyallup** . . . . .253-845-1112
- Renton** . . . . .425-235-1111
- Seattle** . . . . .206-448-1992
- Tacoma** . . . . .253-627-7701

*Or Call Toll Free*

North Puget Sound area including King & Snohomish Counties

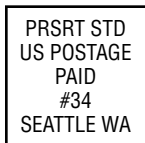
**800-422-4610**

South Puget Sound area including Pierce, Kitsap, Mason & Thurston Counties

**800-273-5005**

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