

Version 1.1

Status:
Final

Effective Date:
September 5,
2025

Allianz Reinsurance America, Inc.

Service & Billing Guidelines for Legal Service Providers

Document Information:

Document:	Allianz Reinsurance America, Inc. Service & Billing Guidelines for Legal Service Providers
Author(s):	Shannon Hall
Departments	AZRA Claims
Contact Person(s):	Shannon Hall
In force from	September 5, 2025
Area of application	Allianz Reinsurance America, Inc.

Contents

1	Guiding Principles	4
1.1	Allianz Reinsurance America, Inc. Objectives	4
1.2	Ethical Business Conduct	4
1.2.1	Conflicts of Interest	4
1.2.2	Gifts, Entertainment & Favors	5
1.2.3	Compliance with Anti-Bribery Laws	5
1.2.4	Anti-Corruption Policy	5
1.2.5	Claims Department Conflicts of Interest	6
1.3	Privacy & Confidentiality	6
1.4	Rates	6
2	Service Level Requirements	7
2.1	Staffing & Supervision	7
2.2	Documentation	7
2.3	Law Firm Conflicts	7
2.4	Reporting & Communication	8
2.4.1	General Guidelines	8
2.4.2	Acknowledgement of Assignment	8
2.4.3	Reporting & Communication – Litigation (See also “Additional Requirements for Coverage Litigation Assignments” below)	8
2.4.4	Reporting & Communication - Non-Litigation	9
2.4.5	Reporting & Communication - Insured	10
2.5	Investigation	10
2.6	Discovery and Motion Practice	10
2.7	Experts	11
2.8	Settlement Negotiations, Demands & Authority	11
2.9	Additional Requirements for Coverage Litigation Assignments	11
2.9.1	Discovery & Motion Practice	11
2.9.2	Legal Hold Notices (Legal Hold Pro™)	12
2.10	Coverage Opinion Assignments	12
2.10.1	Communication & Opinion Due Dates	12
2.10.2	Coverage Opinion Format	12
2.11	Medicare Reporting Requirements	12
2.12	File Audits and Counsel Evaluation	12
3	Billing Requirements	14
3.1	Invoice Submission Platform and Frequency	14
3.1.1	Invoice Submission by Allianz Program	14
3.1.2	Invoices for Claims on Allianz Policies	14
3.2	Invoice Returns	14
3.3	Invoice Format	15
3.3.1	Invoice Header	15
3.3.2	Invoice Entries	15

3.4 Invoice Submission Instructions	15
3.4.1 Legal-X.....	15
3.5 Prompt Pay Discounts	17
3.6 Time Charges	17
3.6.1 Description of Services	17
3.6.2 Multiple Attendance	17
3.6.3 In Firm Conferences & Communications.....	18
3.6.4 Depositions	18
3.6.5 Motions	18
3.6.6 Revising Standardized Forms/Pleadings.....	18
3.6.7 Legal Research.....	18
3.6.8 Secretarial/Clerical Tasks	18
3.6.9 Staffing and Delegation	19
3.7 Charges for Expenses	19
3.7.1 Internal Expenses	19
3.7.2. External Expenses	19
3.7.2.5. Court Call Expenses.....	20
3.8. Non-Reimbursable Administrative & Overhead Expenses	21
3.8.2. Non-Reimbursable Administrative Expenses.....	21
3.8.3. Non-reimbursable Overhead Expenses.....	22
3.9. Appeals Process	22
4 Appendix A: 10 Day Communication Guide	23
5 Appendix B: MMSEA Reporting Requirement.....	24

Amendments, Changes:

Version	Date	Reason for and extent of changes	Author(s) / Department	Approved by:
1.1	9/5/2025	Reformat to Allianz style for corporate rules; remove references to Allianz Resolution Management and ARM US; updated Medicare Appendix B, added reference to Confidential Program in Legal-X.	Shannon Hall/AVP of APH Claims;	

1 Guiding Principles

1.1 Allianz Reinsurance America, Inc. Objectives

The goal of Allianz Reinsurance America, Inc. ("Allianz"¹) is to ensure legal services provided are of the highest quality and delivered in a timely, efficient and cost effective manner. The policies and procedures contained herein outline the terms of counsel's engagement. Nothing contained in this document is intended to nor must restrict counsel's independent exercise of professional judgment in rendering legal services for the insured or otherwise interfere with any ethical directive governing the conduct of counsel.

Counsel will be apprised of assignment specific objectives, fee arrangements, Allianz and insured liaison contacts, and any special handling requirements during initial contact with the adjuster. Allianz expects each party to keep the other apprised of significant developments in addition to the communications requirements discussed later.

Allianz' litigation philosophy is to identify as soon as possible those claims that should be targeted for resolution and to discuss settlement opportunities early, if appropriate. The use of alternative dispute resolution is strongly encouraged in order to achieve cost-effective results. Allianz expects counsel will immediately notify us whenever it appears the cost of defense will be disproportionate to the size or the importance of the case or if total fees are likely to exceed reasonable expectations.

Please note that these guidelines do not replace specific written agreements with or instructions to your law firm. However, the guidelines reflect the minimum quality standards set out herein. In the event specific instructions are provided, or questions are asked, please respond fully to same within 5 business days.

Where contractual relationships with external counsel are regulated by local law, local law prevails over these guidelines.

Allianz values its relationship with counsel and encourages counsel to communicate candidly about methods and strategies to improve service and reduce costs for our mutual clients. We believe in the team approach to litigation management and hope our relationship with counsel will be a lasting one.

1.2 Ethical Business Conduct

1.2.1 Conflicts of Interest

The legal services provider ("Vendor" and/or "Counsel") represents and warrants that, to the best of its knowledge and belief, no economic or other benefit has been or will be provided to, and no consultant, managerial, business, close familial and/or other similar relationship exists between Vendor and any employee of Allianz or its Affiliates, or between Vendor and any relative of an employee of Allianz or its Affiliates, which would tend

¹ For purposes of this document, "Allianz" includes carriers of the legacy company, Fireman's Fund Insurance Company, including American Automobile Insurance Company, The American Insurance Company Ohio, The American Insurance Company Missouri, Associated Indemnity Corporation, Chicago Insurance Company, Fireman's Fund County Mutual Insurance Company, Fireman's Fund Indemnity Corporation, Fireman's Fund Indemnity Corporation New Jersey, Fireman's Fund Insurance Company, Fireman's Fund Insurance Company of Hawaii, Inc., Fireman's Fund Insurance Company of Louisiana, Fireman's Fund Insurance Company of Ohio, Interstate Fire & Casualty Company, National Surety Corporation, San Francisco Reinsurance Company, Allianz Reinsurance America, Inc., Par Holding LTD, Life Sales, LLC, Fireman's Fund Financial Services, LLC Delaware, International Film Guarantors, LLC, Standard General Agency, Inc., and International Film Guarantors, LTD. (collectively, FFIC Legacy Companies).

in any way to influence such employee in the performance of his or her duties on behalf of Allianz or its Affiliates in connection with the awarding, amending or making determinations concerning the performance of this or any other Agreement.

1.2.2 Gifts, Entertainment & Favors

Allianz and its employees are governed by an internal Company Gifts & Entertainment policy. Vendor represents and warrants that its employees will not offer or accept gifts, entertainment or favors when doing so may influence or appear to influence Allianz business decisions or the judgments or actions of Vendor. The exchange, offering or acceptance of any gift, cash or cash equivalent (including a gift card or gift certificate), personal service, major travel expense, or unusual entertainment by either party to this Agreement to the other party is expressly prohibited unless previously disclosed to and approved by Allianz's Head of Compliance. This prohibition is applicable to each party's officers, employees, agents and immediate family members of the foregoing. If Vendor has questions concerning the appropriateness of a gift, entertainment or favor, Vendor should contact Allianz's Head of Compliance (AZRACompliance@allianzrm-us.com) or the Allianz Integrity Line for guidance at 1-866-595-0063.

1.2.3 Compliance with Anti-Bribery Laws

The Vendor represents and warrants that neither the Vendor nor the Vendor's family members, parent company, subsidiaries, affiliates or their shareholders, subcontractors, members, managers, directors, officers, employees, independent contractors, subcontractors or agents has (i) made an offer, payment, promise to pay, or authorized the payment of any money, including kick-backs, or made a gift, promise to give, or authorized the giving of anything of value to any third party including, but not limited to, a government official, political party, party official, family member or representative of a state-owned enterprise for the purpose of wrongfully influencing the recipient; obtaining or retaining business; or for securing or obtaining an improper business advantage; or (ii) taken any action, or permitted or authorized any action to be taken, including an action in connection with the conduct of their business and the transactions contemplated under this Agreement, which would cause the Vendor, Allianz or any of Allianz's Affiliates to be in violation of any applicable Anti-Bribery or Anti-Corruption Laws, including but not limited to the United States Foreign Corrupt Practices Act of 1977, as amended; the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related implementing legislation and all local laws in the countries in which business is conducted. If Vendor is aware of a real or apparent conflict of interest, Vendor should immediately disclose this concern to Allianz's Head of Compliance (AZRACompliance@allianzrm-us.com) or the Allianz Integrity Line for guidance at 1-866-595-0063.

1.2.4 Anti-Corruption Policy

Vendor and/or its affiliates and their directors, employees, subcontractors and other persons acting on their behalf shall not, directly or indirectly (e.g. via family members), offer or grant to Allianz and/or any Allianz Affiliate or any of their employees, persons acting on their behalf or other third party concerned with the performance of this agreement any benefit, be it monetary or other, that such recipient is not legally entitled to for the purpose of obtaining any illegitimate advantage with regard to the conclusion or the performance of this agreement.

Vendor and/or its affiliates shall not commit, authorize or permit any action which would cause it or Allianz and/or any Allianz Affiliate to be in violation of any applicable anti-corruption or anti-bribery law or regulation in the performance of this agreement. This obligation applies in particular to illegitimate payments, including facilitation payments, to government officials, representatives of public authorities or their associates, families or close friends. Vendor shall promptly notify Allianz and the relevant Allianz Affiliate if it becomes aware of any violation of this Article.

1.2.5 Claims Department Conflicts of Interest

During the course of normal business, claims personnel may establish business relationships with law firms and other organizations and their employees whose businesses often provide services for Allianz. Because these business relationships may be perceived by our customers and the general public as creating conflicts of interest, the Allianz Claims Department has established the following rules of conduct for employees.

Gifts sent to the office, except items of advertisement (pens, coffee mugs, key chains, etc.), or gifts of low value, should not be accepted and should be returned to the sender with a letter thanking the donor but explaining acceptance is against company policy. No gifts should be sent to the employee's home.

An occasional business lunch or dinner is permissible providing that it is business related and is not for a group of Allianz employees. An invitation to social or sporting events may be accepted infrequently, provided it is business related. Acceptance of family vacation facilities, business trips (legal seminars, etc.) and personal travel by employees and family members/significant others is prohibited.

1.3 Privacy & Confidentiality

Allianz considers all information that can be connected to a policyholder (including, but not limited to, name of case, name of policyholder, identity of other parties to litigation, identity of plaintiffs' counsel, and court docket number) to be private and confidential, and disclosure of such information in any manner is strictly prohibited. Counsel is not authorized to make any public comments, issue statements or press releases in connection with any matter being handled for Allianz or an Allianz insured. Any exceptions must be authorized by Allianz.

We understand much of the information contained in litigated claims is a matter of public record, and we recognize counsel may like to publish such information to acknowledge positive case results. However, Allianz has a paramount obligation to its policyholders and requires any reference to such claims exclude all information that can potentially be connected to a policyholder. This prohibition against disclosure includes, but is not limited to counsels' actions to publicize case results on internal or external web sites, including attorney rating websites.

1.4 Rates

Allianz will only pay the hourly rate or alternative fee arrangements it has preapproved in writing. Rate increase requests should be forwarded via email to the claims head of the pertinent line of business, and should include existing rates, date existing rates were set, and requested rates. Counsel seeking any increase in hourly rates must demonstrate to Allianz' satisfaction that the proposed increase is justified by a corresponding increase in value provided. Annual law firm increases based on market rate increases presumptively will not meet this standard, but upon request, Allianz will consider evidence rebutting this presumption. Allianz does not accept unilateral rate increases. Counsel must obtain written approval prior to submitting invoices with new rates.

2 Service Level Requirements

2.1 Staffing & Supervision

Each law firm providing legal services to Allianz' insureds and/or Allianz must designate a single point of contact for billing related issues. In addition, each law firm must designate a single point of contact for receipt of new case assignments, legal services related issues, including service quality, file audits, operational processes, rate negotiations, escalation of specific case handling and billing issues, etc.

If the firm does not have experience with the specific legal issues presented in the case sufficient to competently represent the client, Allianz must be informed immediately.

Every case is assigned with the expectation that it will immediately be assigned to a designated handling attorney ("Handling Attorney"). The Handling Attorney is defined as a partner or senior level attorney who is responsible for managing all aspects of the assignment. The Handling Attorney will propose for adjuster approval the appropriate team to manage and attend all key litigation events, including but not limited to party and expert depositions, non-discovery oral arguments/hearings, mediation/arbitration, pre-trial conferences, trial, appellate oral arguments, etc. The typical staffing model utilized by Allianz is one partner, one associate and one paralegal assigned to each matter. However, each file must be staffed economically and effectively, which may require additional team members at times. Delegation to qualified subordinates should occur, but must not result in a reduction in work quality, or unnecessary time spent to get new attorneys educated on a file. The Handling Attorney must approve all substantive work while ensuring no duplication of effort occurs.

Reassignment of case within the firm requires adjuster approval, and changes should be avoided unless delivering an efficiency or quality gain. Charges billed for work conducted due to departure of personnel or movement of a file from one Handling Attorney to another will not be paid.

2.2 Documentation

Telephone and email communications must be documented in Counsel's physical or electronic file.

Counsel should consult with the adjuster to determine the most efficient means of document delivery. Do NOT ever duplicate email with hard copy mail.

Counsel should comply with all reasonable requests for information and documents, provided however, that any documents or information that are privileged or intended by the insured to remain confidential must not be disclosed absent consent from the insured.

2.3 Law Firm Conflicts

Within 24 hours of receipt of an assignment, counsel must conduct a thorough investigation to determine whether the firm has any ethical impediment, actual or potential, to representing Allianz or the insured. Results of that investigation must be communicated by telephone or email to the adjuster.

To the extent any ethical impediment, actual or potential, arises at any time, defense counsel must immediately inform the adjuster. Conflict waivers must be approved by Allianz and, if applicable, the insured. Allianz will not pay fees or expenses associated with conflict checks.

Any requests for conflict waivers must be discussed with the adjuster and approved by Allianz' Legal Department.

2.4 Reporting & Communication

2.4.1 General Guidelines

Allianz encourages telephone discussions for quick, cost effective communication regarding status and activities. Unless otherwise directed by the adjuster, all written communication should be via email, and hard copies should be provided only when requested.

The Handling Attorney must communicate and apprise the adjuster of significant developments as soon as practical. Significant developments are those that impact the evaluation or timeline of the case, including but not limited to key depositions, medical and financial documents, expert reports and testimony, settlement demands and opportunities, dispositive motions, risk transfer opportunities, and changes in case evaluation, litigation strategy, litigation plans or budgets. At a minimum, counsel should send a brief status update every 90 days. In addition, counsel should immediately advise Allianz of all court timetables and relevant dates.

The minimum reporting and communication requirements are delineated below.

2.4.2 Acknowledgement of Assignment

The Handling Attorney must acknowledge receipt of the assignment within 24 hours by telephone or email to the adjuster. All telephone acknowledgements should be confirmed by email within 10 days.

2.4.3 Reporting & Communication – Litigation (See also “Additional Requirements for Coverage Litigation Assignments” below)

2.4.3.1 10 Day Communication (excludes Declaratory Judgment lawsuits)

Within 10 days of receipt of the assignment, the Handling Attorney must contact the adjuster to jointly develop the strategy, plan and cost estimate for the case, pursuant to Appendix A - 10 Day Litigation Communication Guide.

2.4.3.2 Litigation Strategy & Cost Report

No later than 45 days (20 days for Workers Compensation) from receipt of a litigation assignment and after the 10 Day Communication, the Handling Attorney must provide the adjuster with a Litigation Strategy & Cost Report in the format specified by Allianz. Counsel should provide their budgets directly to Allianz in the Litigation Strategy & Cost Reports and should not enter budgets in Legal-X. For litigated matters, the budget should reflect Counsel's best estimate of litigation related costs (fees and expenses) that will be paid between the date the matter was assigned to Counsel up to 60 days before trial. The Handling Attorney must submit a supplemental Litigation Strategy & Cost Report to the adjuster when the strategy or scope of work significantly changes and/or as soon as it is anticipated that fees and/or expenses will exceed those provided in a prior Litigation Strategy & Cost Report. Counsel is expected to litigate the case in line with the agreed upon strategy and budget. Any deviation must be discussed with the adjuster in advance.

2.4.3.3 Alternative Dispute Resolution Report

The Handling Attorney must immediately notify the adjuster of the setting of, or changes to, mediation, arbitration and settlement conference dates. If requested by the adjuster, the Handling Attorney must provide an Alternative Dispute Resolution Report in the format

specified by Allianz 30 days before any scheduled mediation, arbitration or settlement conference.

2.4.3.4 Pre-Trial Report

In all matters other than asbestos cases, the Handling Attorney must provide the adjuster with a written Pre-Trial Report in the format designated by Allianz no later than 60 days before a scheduled trial. For asbestos matters, the Pre-Trial report should be provided as soon as practicable, and at least 20 days prior to a scheduled trial. The Handling Attorney must immediately notify the adjuster upon setting of, or changes to, a trial date. The Pre-Trial report must contain the following key data points to allow for a query of the claimant's Medicare status: 1) first name, 2) last name, 3) date of birth, 4) gender, 5) social security number reported as no less than the last five digits.

2.4.3.5 During Trial Reports

Beginning with in limine motions and/or voir dire, the Handling Attorney must report to the adjuster via email or telephone on at least a daily basis on the development and status of the trial activities, including activities that may alter the evaluation of the case.

2.4.3.6 Post-Trial Report

Trial outcome should be immediately reported by telephone to the adjuster. Further, no later than 5 days after verdict, or earlier if requested by the adjuster, the Handling Attorney must provide the adjuster with a written report, including an analysis of the following:

- Trial outcome;
- Drivers of the case outcome;
- Overview of the lessons learned from litigation, strategy, evaluation, etc.;
- If there was a special verdict issued, a cost assessment as to each party on the special verdict form;
- Potential appealable issues for the plaintiff and/or defense, including chances of prevailing and definitive recommendations;
- Brief assessment of the pre-trial case evaluation as compared to the ultimate outcome; and
- Summary of the juror's feedback. Defense counsel should make every effort to poll the jurors in every trial.

2.4 Reporting & Communication - Non-Litigation

(This section does not apply to Coverage Opinion assignments. See instead Coverage Opinion Assignments section 2.10 below.)

2.4.1 Non-Litigation Strategy & Cost Report

Within 10 days of assignment, the Handling Attorney must provide the adjuster with a Non-Litigation Strategy & Cost Report in the format designated by Allianz. The Handling Attorney must submit a supplemental Non-Litigation Strategy & Cost Report to the adjuster when the strategy or scope of work significantly changes and/or as soon as it is anticipated that fees and/or expenses will exceed those provided in a prior report. Counsel is expected to manage the assignment in line with the agreed upon strategy and budget. Any deviation must be discussed with the adjuster in advance. At a minimum, Counsel must send a brief status update every 90 days.

2.4.5 Reporting & Communication - Insured

This section applies to third-party defense assignments in which counsel is representing the insured, and not coverage related assignments in which counsel is representing Allianz.

In addition to complying with ethical duties, the Handling Attorney must communicate with the insured as necessary to keep the insured well informed and confident in the direction of the case. Following are the minimum reporting and communication requirements:

2.4.5.1 Initial Communication to Insured

When Counsel has been retained to defend an insured, within 24 hours of the assignment, the Handling Attorney must contact the insured by telephone and send an email to the adjuster confirming the contact with the insured. In addition, the Handling Attorney must contact the insured in writing to provide the insured with a copy of the answer.

2.4.5.2 Communication Regarding Significant Developments

The Handling Attorney must provide timely reports to insured of all significant developments, including as much advanced notice as possible for any events requiring insured's attendance, information, or documents. Significant developments are those that impact the evaluation or timeline of the case, including but not limited to key depositions, medical and financial documents, expert reports and testimony, settlement demands and opportunities, dispositive motions, risk transfer opportunities, and changes in case evaluation, litigation strategy, litigation plans or budgets. At a minimum, send a brief status update every 90 days.

2.5 Investigation

The adjuster must perform steps that could or should typically be performed by an adjuster and do not require a license to practice law or are not typically done by a paralegal or legal secretary. Counsel must be responsible for those items requiring a license to practice law to perform or are typically performed by a paralegal or secretary.

Counsel must complete a sufficient amount of investigation in order to effectively evaluate Allianz' or the insured's exposure prior to the required reporting intervals.

2.6 Discovery and Motion Practice

The scope and projected cost of discovery and motion practice must be contained in the approved Litigation Strategy & Cost Report and supplements thereto. Any changes to the plan should be discussed with the adjuster in advance.

Discovery and motion practice must be cost-effective. Whenever possible, counsel should handle discovery informally, including production of documents, arranging for depositions and handling discovery disputes. Routine interrogatories, requests for admissions and document requests should be handled at the appropriate staffing level. Discovery motions should be filed as a last resort.

Only one attorney should attend depositions and court appearances absent prior written approval from the adjuster. A brief synopsis of deposition testimony, including the effect on the case and impressions of the deponent as a witness should be provided promptly. Line by line summaries will not be compensated unless prepared in advance of trial, approved by adjuster, and prepared by a paralegal.

Counsel must provide ample lead time to Allianz and the insured, as appropriate, regarding requests for information or documents.

2.7 Experts

Experts must be identified and agreed upon in the Litigation Strategy & Cost Report or supplements thereto, and any deviations must be discussed with the adjuster. Allianz approval of any expert(s) or expert related expenses must be noted on any invoices which include such expenses.

Consideration must be given to refraining from retaining the expert (provided court rules or scheduling orders permit) until such time as an opposing expert can either provide a written report or be deposed (unless consultation with an expert is critical to analyzing the issues or the effective questioning of the opposing expert witness during deposition).

Prior to engaging an expert or incurring any expert expenses, the Handling Attorney must provide the adjuster with the following :

- a brief explanation of the expert's purpose;
- the expected scope of the expert's activities;
- rates and budget for the expert's planned activities; and
- the expert's credentials and/or curriculum vitae.

The Handling Attorney must ensure the work performed by the expert is consistent with the predefined scope and budget, and the expert's invoice is free from unreasonable charges or charges for unapproved work.

Expert expenses greater than \$2,500 must be discussed with the adjuster before the work is begun.

2.8 Settlement Negotiations, Demands & Authority

Negotiations must be conducted with opposing counsel by the adjuster, except if precluded by local rules or requested by the adjuster. The Handling Attorney and the adjuster must keep one another apprised of the status of negotiations with opposing counsel.

The Handling Attorney must convey all settlement demands to the adjuster in writing within 24 hours or sooner if an immediate response is needed. If the adjuster does not respond before the earlier of 10 days, or before the deadline is set to expire, the Handling Attorney must follow up with the adjuster or otherwise escalate their request so that a timely response can be made to the demand.

Allianz retains final settlement authority on all cases.

2.9 Additional Requirements for Coverage Litigation Assignments

2.9.1 Discovery & Motion Practice

At least 10 days prior to the due date, counsel must provide proposed discovery responses to the adjuster.

At least 7 days prior to filing, counsel must provide copies of all key pleadings that impact Allianz' coverage position, such as amended complaints, motions, releases, and orders of dismissal.

All appeals and post-trial motions must be approved in advance by the adjuster.

7 days prior to the date they are required to be filed with the trial court, counsel must submit post-trial motions to the adjuster.

2.9.2 Legal Hold Notices (Legal Hold Pro™)

Allianz uses Legal Hold Pro™ to issue hold notices to Allianz records custodians for all declaratory judgment and other coverage matters involving Allianz policies in which litigation is reasonably anticipated. If Counsel anticipates that a legal hold will be necessary on a non-litigated matter, Counsel should immediately notify the handling adjuster.

2.10 Coverage Opinion Assignments

(Note: The Communication & Reporting – Non-Litigation section 2.4.4 above does not apply to Coverage Opinion assignments.)

2.10.1 Communication & Opinion Due Dates

Within 3 business days from the date of assignment, unless a shorter time is requested, the Handling Attorney must make contact with the adjuster to discuss relevant issues.

Within 14 days from the date of assignment, unless a shorter time is requested, the Handling Attorney must complete and send the coverage opinion to the adjuster by e-mail.

Follow-up opinions, additional opinions and position letters, when requested, must be within the time frame set by the adjuster.

2.10.2 Coverage Opinion Format

Coverage opinions letters must include the following sections:

- Introduction and brief summary of conclusions:
- Statement of facts:
- Policy information, including recitation of relevant policy provisions:
- Analysis of applicable law and application of facts of case and policy: and
- Conclusion and recommendations including potential business impact.

Any follow-up or additional advice and/or opinions requested must follow the same format set forth above unless a different format is approved or requested by the adjuster.

2.11 Medicare Reporting Requirements

The Medicare, Medicaid and SCHIP Extension Act of 2007 ("MMSEA") requires insurers to report all claim payments, including settlements, judgments, and awards made to Medicare-eligible claimants, with the exception being when the injury occurred or exposure ended before December 5, 1980. Counsel must work with the adjuster to ensure that Allianz has the necessary information for accurate reporting to Medicare and that all settlement agreements involving Medicare-eligible claimants include release language which protects Allianz' and Medicare's interests. A case may not be resolved via settlement or any other payment to the claimant without first investigating the Medicare eligibility of the claimant. See Appendix B – MMSEA Reporting Requirements for complete information and instructions.

2.12 File Audits and Counsel Evaluation

Allianz reserves the right to conduct periodic audits of file(s) handled on behalf of Allianz or its insured's. The purpose of the audit is to evaluate the quality of legal services provided, adherence to service and billing requirements and overall results. The audits may be conducted by Allianz or others retained on Allianz' behalf. The audit will take place at counsel's premises, unless otherwise requested by Allianz, at a mutually acceptable time and date. By accepting assignment of Allianz business, the law firm agrees to cooperate with the auditors and will

make available the Handling Attorney and other personnel as requested, complete access to the file(s), and all pertinent billing information, time slips, records and/or reports as requested. Allianz fully reserves all rights to decline to pay or to seek reductions and/or refunds with respect to charges that fail to comply with the requirements set forth herein, and which are not fully explained or documented by the firm after reasonable inquiry. We will allow you to appeal any declination of payment.

3 Billing Requirements

3.1 Invoice Submission Platform and Frequency

3.1.1 Invoice Submission by Allianz Program

Unless otherwise instructed by your adjuster, all invoices for legal services must be submitted through the Legal-X (Bottomline) invoice submission platform, in LEDES format. Your adjuster is responsible for opening your case in the appropriate Allianz program (exception: asbestos defense assignments). Please contact your adjuster if you do not see your case listed for invoice upload. Allianz programs are as follows:

1. Coverage Litigation & Advice: Coverage work including coverage opinions, assists, bankruptcy advice, and representation of Allianz in declaratory relief actions.
2. Asbestos: Defense work related to asbestos litigation. (Note: separate billing guidelines apply to asbestos defense assignments)
3. Health Hazard: Defense work related to all health hazard claims including benzene, silica, habitability, lead paint, chemical exposure (including Agent Orange), etc. (Note: separate billing guidelines apply to health hazard defense assignments)
4. Pollution: Defense work related to pollution litigation.
5. Reinsurance: Assistance with ceded or assumed reinsurance disputes.
6. Construction Defect: Defense work related to construction defect claims.
7. GL/Excess: Defense work related to GL/Excess claims including NY Labor Law, medical malpractice, sports injury, etc.
8. PL Healthcare: Defense work related to Professional Liability Healthcare claims.
9. Workers Compensation: All work related to workers compensation claim handling.
10. Confidential: Defense or coverage work related to sexual abuse claims or other sensitive matters.

3.1.2 Invoices for Claims on Allianz Policies

Invoices for claims on Allianz policies must be submitted monthly through the Legal-X invoice submission platform, in LEDES format.

All matters must be billed separately per claimant. Any work relating to the insured's defense as a whole (i.e. development of a corporate witness, product research, etc.) may be billed to a "general" file; however, any work relating to an individual claimant must be reported separately.

Unless otherwise directed, the time for each activity must be separately stated. Grouping multiple activities under a single time charge greater than one-tenth of an hour ("block billing") is not acceptable.

3.2 Invoice Returns

Final bills must be sent within 3 months of the final billing entry. Allianz reserves the right to reject any billing for the following reasons:

- Invoice is submitted four months after the file is closed by Allianz
- Invoice is submitted more than six months from the date of service
- Invoice contains an invalid timekeeper
- Invoice is submitted in an invalid format
- Invoice is submitted with a missing or invalid claim number
- Invoice contains a math error
- Invoice date is a future date
- Invoice number is a duplicate of a previous invoice number

- Invoice is an exact duplicate of another invoice
- Invoice amount is below \$5.00 or a negative dollar amount
- Invoice charges not broken down by tenths of an hour
- Invoice submitted on a matter that requires a budget where none has been received
- Invoice exceeds or will take total spend over approved budget
- Invoice contains block billed charges
- Charges does not include a date, timekeeper or unit
- Invoice does not contain valid UTBMS or custom Codes
- Invoice does not contain firm's tax identification number
- Invoice does not contain firm's address

3.3 Invoice Format

3.3.1 Invoice Header

The header information must be consistent with that required by the LEDES format. Please see the LEDES web site at www.ledes.org for information on the formatting of a LEDES invoice. Such information includes but is not limited to (a) invoice date; (b) invoice number; (c) client id; (d) law firm matter id; and (e) invoice total.

3.3.2 Invoice Entries

The bill must be prepared with daily entries consistent with the LEDES format showing (a) the date the work was performed; (b) the timekeeper id; (c) a description of the work performed (single activities must be described such that no client confidential information is contained in the written descriptions; entries must be limited to strategic tasks); (d) the actual time in tenths of an hour; (e) line item total; (f) the UTBMS task or expense code; (g) the UTBMS activity code; and (h) any additional custom code as directed by the adjuster. When expense codes E119 (Experts) and E123 (Other Professionals) are used, the type of expert or other professional retained must be noted in the comments field.

3.4 Invoice Submission Instructions

Each invoice must be reviewed by the handling attorney to ensure that billed amounts reasonably reflect the value of work performed and that all costs and disbursements were reasonable and necessary.

Allianz reserves the right to change the required bill submission method. Counsel will be notified in advance of any substantive changes to the required billing procedures.

3.4.1 Legal-X

Invoicing

Important Note: Invoice files must be in the LEDES1998B or LEDES2000 format which is generated by your Time and Billing Software before uploading. Please refer to your Time & Billing Software Support for more information. If you will not be uploading your invoices, please proceed to "Manually Creating an Invoice" (See "Manually Creating an Invoice", below).

1. Navigate to the "Submission" tab and select "Submission Queue" from the menu
2. Select "Upload Invoices"
3. Select the correct "File Format" from the drop down menu
4. Click the Browse button to locate your saved invoice files generated by your Time & Billing Software
5. Select "Upload Invoices"
6. After reviewing your overall submission is correct, select "Continue" to return to the Submission Queue

7. The invoice should display with the case name. If the case name is not displayed, select the ellipse button (“...”) to locate the case. You may also add a case by selecting the plus sign. You will be required to complete the same case requirements

Manually Creating an Invoice

The following steps are instructions on how to create an invoice in the system. If you are not using Time and Billing software and/or cannot upload your invoice, these instructions will apply. If you have uploaded your invoices, please skip these steps and proceed to “Invoice Submission”.

1. Select Enter Invoice.
2. Select the case by clicking on the blue button (...) to the right
3. Enter an Invoice number, Invoice date (Date will default to today’s date, but can be changed prior to submitting the invoice)
4. Auto Calculate Billing Period? Leaving the box checked will automatically determine the start and end date of the invoice based on the invoice entries. Unchecking the box will allow you to enter a billing start and end date manually.
5. Enter any applicable sales tax for fees and expenses. Sales tax should only be added if you currently have sales tax
6. Shared percentage will default at 100%. If Counsel believes a different cost share should apply, he/she should notify the handling adjuster. Click on “Save”

Adding Line Items

1. Click on Add Line Item
2. Select date of activity
3. Select applicable Task and Activity codes. These are “UTBMS” Codes. If you bill using these codes please fill this information out.
4. Select Charge Type. “Units” are used for fees and expenses, “Fixed” are for a flat rate.
5. Enter the Rate amount. If for fees, the rate amount must be approved for that timekeeper prior to billing.
6. Enter number of Units. The number of units will represent time being billed for fees or number of items for expenses.
7. Enter the timekeeper’s billing code. This would be the billing code that was entered when the timekeeper was added to the system.
8. Enter in a thorough explanation of the charge or work that was done for the specific line item.
9. Select a charge type from the drop down.
10. Select “Save & Add” to keep Line Item window open for adding additional line items. Selecting “Save” will close the Line Item window.

Invoice Submission

1. Select the invoice you want to submit by clicking the box to the left of the invoice number and click “Submit”
2. If there are no deductions select “Get Tracking Number” to finalize the invoice submission. Note: If there are deductions and you need to Edit the invoice - see “Edit Invoice” section before finalizing the invoice. You will not be able to edit an invoice once you have the tracking number.

Edit Invoice

1. Select the invoice by clicking on the circle located to the left of the case name, then select “Details”
2. Select “Details” on the right of the line item to review and edit item deductions
3. Select “Edit” to update
4. Update/Edit entry. When complete select “Save” (this process can be repeated for multiple entries)

Attaching Supporting Documents

1. Once the invoice is submitted and you have the tracking number, click on the invoice number to view the Invoice Status page

2. Scroll down to "Supporting Documentation" and click "Browse" to locate the document that you need to attach
3. Select "Upload"

Allianz has authorized the Bottomline Technologies Technical Support Department to assist with questions about invoice submissions to Legal-X, structured data formats and the resolution of formatting problems. The Technical Support Department can be reached by calling 866-645-7444.

3.5 Prompt Pay Discounts

Allianz' standard is to pay all legal bills within 45 days of receipt unless there is some form of disagreement regarding the amount or appropriateness of a given charge. Prompt pay discounts are available and requests for prompt pay discounts should be sent via email to jacqueline.pointer@allianzrm-us.com.

3.6 Time Charges

All charges for services by attorneys and paralegals must be recorded daily based upon their actual time in one-tenth hour increments. A fixed or predetermined charge for performance of routine tasks is not permitted.

Charges for secretaries, librarians, billing or filing clerks, law clerks, summer associates, internal couriers, computer support personnel, word processors or temporary clerical help will not be reimbursed.

3.6.1 Description of Services

Time entries for services rendered must describe the nature, purpose or subject of the work performed, and the specific activity or project to which it relates. Billing entries should include the following details, as applicable:

- Purpose identified for each action
- Attendees listed
- Deponents/Interviewees identified
- Purpose of transcript review given
- Research topic identified
- Specific trial prep described
- Specific motion activity and nature of work performed
- Identity of material reviewed, purpose and quantity given

Generic, vague or general activity descriptors are not acceptable and will not be reimbursed. Examples of inadequate descriptions include, but are not limited to, "attention to matter", "file review", "letter re status", "...re same", "research", "prepare for deposition", "trial preparation", and "work on discovery."

3.6.2 Multiple Attendance

In general, only one attorney or staff member should be assigned to a given task including trial, court appearances, arbitrations, mediations, meetings, depositions, witness interviews, inspections and other functions. The adjuster must approve exceptions to this guideline. In the absence of such authorization, only time for the primary attorney or staff member assigned to the task will be reimbursed.

3.6.3 In Firm Conferences & Communications

While there may be an occasional need for an attorney to consult with another attorney in the firm to obtain specific advice on substantive or procedural aspects of the case, such conferences should be conducted only when necessary. Reasonable and necessary conference time will be paid, provided sufficient detail of the subject and value of the conference is identified. In the absence of such information, only the most senior biller's time will be paid.

E-mail communications between attorneys and paralegals are billable only by the most senior time keeper and only when substantive strategy discussions are involved. Instructional, administrative, or reporting e-mails are non-billable.

3.6.4 Depositions

The Handling Attorney must consult with the adjuster prior to scheduling any deposition not contained in the Litigation Strategy & Cost Report. The Handling Attorney must attend all party and expert depositions. Only one attorney should attend depositions. Additional attendees must be preapproved by the adjuster. Deposition reports should contain a brief synopsis of the testimony, including the effect on the case and impressions of the deponent as a witness. Line by line summaries (also called digesting, or page/line summaries) are permitted only when pre-approved by the adjuster or when preparing motions or for trial. When approved, digesting is compensable only when completed by a paralegal.

3.6.5 Motions

The Handling Attorney must consult with the adjuster prior to filing any motions or briefs not contained in the Litigation Strategy & Cost Report.

3.6.6 Revising Standardized Forms/Pleadings

Only the actual time spent modifying standardized pleadings, documents or discovery responses or requests to the case at hand should be billed, rather than the time originally spent drafting standard language.

3.6.7 Legal Research

Counsel must consult with the adjuster before undertaking any legal research project requiring over 3 hours of attorney or paralegal time. Generally, legal research should be performed at the associate level. Research on fundamental matters such as local rules of practice or basic issues of law is not billable. Copies of all research memoranda must be provided to the adjuster upon request.

3.6.8 Secretarial/Clerical Tasks

Charges for secretarial and clerical tasks will not be reimbursed. Such tasks include, but are not limited to, receipt and distribution of mail, new file set up, docketing and calendaring for office and attorney calendars (i.e. scheduling meetings or depositions,) transcribing, copying, posting, faxing, emailing, interacting with or retaining vendors, inserting documents into and retrieving documents from the file, maintaining order in the file, stamping documents, tabbing sub-files, assembling materials, delivering or retrieving documents from opposing counsel and/or the court, word processing, making travel arrangements, scheduling events or travel, etc.

3.6.9 Staffing and Delegation

Work should be performed economically without affecting the quality of the legal services. Billable work that can be performed by an associate should not be billed at the partner rate. Billable work that can be performed by a paralegal should not be billed at an attorney rate. A partial list of paralegal task includes, but is not limited to, preparing standard discovery requests, preparing standard motions to compel, summarizing records and answers to interrogatories, collecting records (standard letters, subpoenas, authorizations, follow up, etc.), preparing page line deposition summaries when the task has been approved by the claim representative, etc. If your firm has no paralegals or paralegal rates approved for billing, a paralegal rate will be assigned to paralegal tasks that are billed at attorney rates.

3.7 Charges for Expenses

Single expenses of \$100 or more must be accompanied by supporting documentation. Supporting documentation must be uploaded to Legal-X. All disbursements must be billed at actual cost without any markups or premiums. All expenses must be itemized. Vague expense descriptions such as miscellaneous, general or "other" are not acceptable. Disbursements will be reimbursed subject to the following requirements.

3.7.1 Internal Expenses

3.7.1.1. Photocopies

Internal photocopying for external distribution of black and white copies will be reimbursed up to \$0.10 per page. Color copies will be reimbursed up to \$1.00 per page. CD copies will be reimbursed up to \$10.00 per CD. The per page rate, the number of copies made and the date the copies were made must be noted on the bill.

3.7.1.2. Telephone

Telephone charges will be reimbursed only if the charge is long distance as opposed to local service which is considered office overhead. Cell phone charges will not be reimbursed.

3.7.1.3. Facsimile

Per page facsimile charges will not be reimbursed. Long distance facsimile charges will be reimbursed to the extent they conform to the long distance guideline above.

3.7.1.4. Postage

Postage is considered office overhead and will not be reimbursed. Postage includes ordinary postage and express mail except where requested by Allianz or required by a court.

3.7.2. External Expenses

3.7.2.1. Vendors

Charges for services by outside vendors will be reimbursed at actual cost. Invoices must be itemized with the following information: a specific description of the services; the date incurred; the name of the vendor; units; unit cost and total.

3.7.2.2. Legal Research

"On line" (i.e. LexisNexis or Westlaw) and other charges associated with computer-assisted research is considered office overhead and will not be reimbursed. Attorney and paralegal

time spent conducting computer-assisted research will be paid subject to the Legal Research Fees section herein.

3.7.2.3. Courier/Messenger Services

Use of these services is considered office overhead and will not be reimbursed unless use of such services is at the adjuster's request or if the service is incurred due to circumstances beyond counsel's control. If either exception applies, the invoice must contain a brief supporting description and documentation must be attached.

3.7.2.4. Court Fees

Court filing fees, witness fees and jury fees will be reimbursed at actual cost. Court e-filing fees are considered office overhead and will not be reimbursed except when court ordered. If e-filing is court ordered, a copy of the receipt needs to be attached to the invoice for reimbursement.

3.7.2.5. Court Call Expenses

Court Call expenses or expenses for similar vendors will be reimbursed at the actual cost to the firm. Court Call expenses or expenses from similar vendors must be supported by a vendor receipt or invoice attached to electronic invoice submission. If there is a monthly plan for these services, then Vendor may not bill for individual charges Vendor did not incur.

3.7.2.6. Deposition Expenses

Reasonable costs associated with depositions including reporting and transcription fees will be reimbursed.

3.7.2.7. Professional & Expert Services

The Handling Attorney must consult with the adjuster prior to incurring any expenses for experts, consultants, investigators, mediators, temporary attorneys or outside paralegals, or other professional services. Allianz approval of any expert(s) or expert related expenses must be noted on any invoices which include such expenses. Such expenses will be reimbursed at actual cost. Refer to the Experts section for additional requirements.

3.7.2.8. Travel

Counsel must consult with the adjuster before incurring travel expenses. Reasonable travel expenses will be reimbursed if such consultation is made in advance and the travel is necessary. Travel time must be itemized separately in invoices.

3.7.2.9. Mileage

Mileage is reimbursable at the prevailing IRS rate if it is at least 50 miles round trip. Automobile travel of less than 50 miles round trip is considered local travel and office overhead. Parking is reimbursable at actual cost.

3.7.2.10. Air Travel

All air travel must be via economy/coach class. Air travel arrangements must be made as early as possible to obtain the most economical fare.

3.7.2.11. Hotel Accommodations

Charges for moderately priced (based on the venue) overnight accommodations will be reimbursed when such expenses are necessary.

3.7.2.12. Rental Car & Car Services

Charges for reasonable rental car expenses for intermediate or smaller vehicles, not to include additional insurance, pre-paid gas, or GPS, will be reimbursed. Rental cars must be filled with fuel before they are returned to the rental car agency.

3.7.2.13. Meals

Meal charges will be reimbursed at actual cost up to a per diem rate of \$75 per day with supporting receipts during trips requiring an overnight stay. If more than one person is attending the meal, provide the name(s) and company(s) represented and the purpose of the meal.

3.8. Non-Reimbursable Administrative & Overhead Expenses

Allianz will not reimburse counsel for the following toiletries or other personal items; luggage or clothing, including hotel laundry service; barber or hair stylist; spa treatments, in-room or in-flight entertainment; entertainment or recreational expenses; house sitting; pet care; airline club dues; travel agent fees; and payment to non-commercial establishments such as relatives' homes for lodging or meals.

3.8.2. Non-Reimbursable Administrative Expenses

The following types of administrative and overhead expenses are not considered reasonable or appropriate legal defense costs and will not be reimbursed.

- Preparing, reviewing and/or following up on firm, legal or vendor invoices;
- Time spent reviewing or analyzing conflict issues, opening or closing a file, or other administrative activities;
- Clerical work performed by paralegals or attorneys;
- Charges directly related to the departure from your firm of a lawyer or paralegal (including start-up work or higher rates for replacement personnel);
- Charges for firm management factors such as supervisory file review, and or training time;
- Fees and expenses for secretarial activities including word or data processing, scanning or coding documents, overtime transportation and meals, proofreading, Bates stamping, collating, labeling, document indexing, transmittal letters, photocopying or printing documents, velo-binding, faxing, scheduling, making travel arrangements, filing, and file organization and management;
- Preparing audit responses;
- Cell phone charges;
- Accounting or bookkeeping services used by the law firm for its own accounting/billing purposes;
- Attending seminars or continuing education;
- Reviewing advance sheets or other publications to stay abreast of the law;
- More than .1 hour for reviewing pre-printed or computer-generated forms, documents, pleadings, notices, discovery, etc.; no fee for generating such documents.
- Individual charges for the same or similar documents sent to multiple parties (e.g., deposition notices)

3.8.3. Non-reimbursable Overhead Expenses

- Case management and/or legal bill review software or systems;
- Continuing education, state bar dues;
- Office overhead including; rent, storage charges, conference rooms, utilities, computer equipment, software, books and publications, seminars, office supplies, routing postage, food and beverages during meetings, local phone and fax charges, internet services, and routine courier and messenger services;
- Online (i.e. LexisNexis or Westlaw) charges for computer-assisted research; and
- Law office staff overtime.

3.9. Appeals Process

Appeals to invoice reductions must be submitted through the Legal-X bill submission platform within 30 days of invoice approval. If no appeal is sought within the thirty day period, it will be deemed that your firm acquiesced to all deductions or declinations. We will not accept an appeal of your denied appeal.

4 Appendix A: 10 Day Communication Guide

Prior to the required 10 Day Communication with the adjuster, counsel should be prepared to respond to the following inquiries:

1. Have you contacted the insured? Have you requested information/documentation/written procedures/policies, etc. from the insured that may be needed to defend the suit or that can be provided to plaintiff's counsel to obtain a dismissal?
2. Have you contacted the plaintiff's attorney? Is there information you can obtain informally that will help in evaluating the case, i.e. liability/damages? Have you discussed or received offers/demands for settlement?
3. Have you considered a MSJ or other dispositive motion?
4. What experts will be needed?
5. What depositions are necessary?
6. Are cross-actions against co-defendants advisable or are there other non-parties which could be brought into the suit?
7. What risk transfer opportunities are there against any other parties or non-parties?
8. Are there critical policies/documents that need to be subpoenaed?
9. Is the venue correct? Would it be better to move the case to federal court or another state venue?
10. Is there anything unique about the plaintiff's attorney, judge or jurisdiction that could impact the case?
11. Is there any key investigation needed? Do we have it or how could we get it?
12. Medicare Compliance - Have you ascertained whether the claimant is currently or is expected to become Medicare-eligible and/or a Medicare beneficiary? This should include considering whether claimant is on social security disability and, if so, how long the claimant has been a recipient of SSD.
13. Medicare Compliance - Do you have all necessary reporting information, and if not, how do you plan to obtain it?
14. Medicare Compliance - Have you spoken with opposing counsel regarding the Medicare and/or SSD status of claimant and does opposing counsel understand the implications related to our Medicare status inquiry?

5 Appendix B: MMSEA Reporting Requirement

Background

The Medicare, Medicaid and SCHIP Extension Act of 2007 ("MMSEA") requires Responsible Reporting Entities ("RREs") to report claim payments to Medicare-eligible claimants. As RREs, insurers are required to report any payment obligation to a Medicare beneficiary when the obligation results from a claim potentially involving past or future medical expenses. Under Section 111 of MMSEA, insurers must notify Medicare of payments made to a Medicare beneficiary, including compensatory and punitive damages, as well as payments made to loss of consortium claimants. Although Medicare may consider the allocation of damages agreed to by the underlying parties or as determined by a court, Medicare is not bound by these allocations and can seek recovery of amounts in excess of those designated as medical expenses.

The legislative purpose behind Section 111 is to drive greater compliance with reporting obligations set forth in a series of Medicare statutes collectively known as the Medicare Secondary Payor Act ("MSP"). Under the MSP, Medicare has been designated as a secondary source of benefits after other available benefits, including contract benefits, settlements, awards or judgments payable from private medical liability (including self-insurance), no-fault and workers' compensation insurance. Despite being classified as a secondary payor, Medicare has the obligation to extend benefits where primary plans will not pay within 120 days of injury or illness. Medicare's payments are known as "conditional payments," and as a result, Medicare is entitled to superior lien and equitable subrogation rights.

Section 111 will lead to greater enforcement of Medicare's recovery rights. As a result, it is imperative that third-party defense counsel assist adjusters to ensure compliance with MMSEA reporting requirements. Third-party defense counsel must work with Allianz to make sure that the adjusters have the necessary information to make accurate reports to Medicare and must ensure that all settlement agreements include release language which protects Allianz and Medicare's interests.

Post-Assignment Information Gathering and Discovery Process

After receiving a third-party defense assignment, defense counsel should immediately consider whether the claimant(s) is Medicare-eligible and whether the claimant(s) is a Medicare beneficiary.

Among the items that defense counsel must ascertain are the following

- Legal first and last name of the claimant, as well as whether claimant has been known by other names;
- Date of birth and gender;
- Social security number;
- Medicare Number (this is no longer the claimant's social security number);
- Whether claimant is eligible for Medicare;

- If not eligible for Medicare, anticipated date claimant will become eligible for Medicare benefits, understanding that a person who receives Social Security Disability becomes eligible for Medicare after 24-months of SSD;
- Whether claimant has received Medicare benefits? Start date?;
- In which types of Medicare has claimant enrolled (Medicare parts C and D are administrated by contractors, commonly called Medicare Advantage Organizations); and
- Whether claimant has received Medicare benefits related to the injury for which claimant seeks compensation.

Defense counsel must address these items with the adjuster during the initial 10-day call and confirm that these matters were addressed in the Initial Suit Report (due 45 days after assignment). Furthermore, defense counsel should propound written interrogatories and ask relevant deposition questions to confirm the answers to the above-identified items to the extent that there are issues regarding whether claimant(s) has received or will be eligible for Medicare benefits.

Conditional Payments Letter

Once a Medicare-eligible claimant has been identified, the claim adjuster and defense counsel must flag lien issues well before resolving the litigated matter. Although the claimant's legal representative has the obligation to determine the amount and payment of a lien, it is critical that the claim adjuster and defense counsel ensure that the claimant's legal representative 1) report the claim to the Benefits Coordination & Recovery Center ("BCRC"); 2) prior to settlement, request a Conditional Payments letter from CMS' recovery contractor which will identify the conditional payments made by Medicare; 3) audit the Conditional Payment letter to make sure that it includes all Medicare payments; 4) provide final settlement documents to CMS's recovery contractor; 5) secure a demand for payment letter from CMS's recovery contractor which sets forth the amount that the recovery contractor determines Medicare is entitled to recover; and 6) resolve the final demand amount with the recovery contractor.

Settlement Agreements

It is imperative that defense counsel use approved settlement release language that addresses the Medicare issues and establishes an agreed reimbursement process. We recommend that third-party defense counsel incorporate the following approved language into all settlement agreements involving personal injury and toxic tort claims. The recommended language requires the claimant and the claimant's attorney to make a specific representation concerning the amount paid by Medicare and that claimant warrants that the Medicare liens will be resolved. Please confer with the appropriate adjuster if it is necessary to deviate from this approved language.

Recommended Medicare Language

MEDICARE CONSIDERATIONS

Provision of All Information Necessary for Section 111 Reporting Releasor will provide Releasee with complete, accurate, and up-to-date information regarding Releasor's Medicare eligibility status. Releasor also will provide any and all information Releasee requires to facilitate and meet its reporting obligations under 42 U.S.C. § 1395y(b)(8). Such information must include, but is not limited to Releasor's full legal name, Social Security Number (SSN), Medicare Number, gender, and date of birth.

Representations and Warranties Regarding Medicare Eligibility and Conditional Payments Releasor represents and warrants that Releasor has provided Releasee with complete, accurate, and up-to-date information regarding Releasor's Medicare eligibility and enrollment

status. The parties agree that all representations and warranties made herein must survive settlement.

Reimbursement of Conditional Payments Releasor acknowledges that Releasor must determine if Medicare (with references to Medicare herein to include Medicare contractors) issued any conditional payments related to treatment for the injury(ies) claimed to be at issue in this case, understanding that, if so, Medicare may seek reimbursement from settlement funds. If Medicare / United States Treasury is not listed as a co-payee on the settlement payment, then Releasor agrees to hold sufficient funds equal to the medical costs at issue in this case from which to reimburse Medicare. Releasor will provide Releasee with proof of resolution of Medicare's conditional payments.

Remedies for Breach and Protection of Medicare's Interests The parties agree that, in the event of a breach of the representations and warranties made by Releasor in the paragraphs above, Releasee must be entitled to set off any remaining payments due under the terms of this agreement, as well as to the full extent of damages and other relief available at law and equity.

The parties have attempted to resolve this matter in compliance with both state and federal law, including 42 U.S.C. § 1395y(b), and believe that the settlement terms adequately protect Medicare's interest in reimbursement and do not shift responsibility for payment of medical expenses covered under this settlement to Medicare. The parties acknowledge and understand that any present or future action or decision by CMS and/or Medicare and/or Medicaid, including actions regarding the claimant's eligibility or entitlement to receive Medicare and/or Medicare payments, will not render this release void or ineffective, nor in any way affect the finality of this settlement. Releasor is responsible for all future medical payments, including any and all claims by Medicare and/or Medicare contractors that have been made or may be made in the future related to, arising out of and/or in connection with this settlement with Releasee.

Indemnification Releasor agrees to indemnify, hold harmless and defend Releasee against loss, cost, expense or liability imposed upon or incurred by Releasee arising from, relating to or concerning Medicare payments related to or arising from this accident.

Confidentiality Provisions Releasors agree that neither they nor their attorneys or representatives shall reveal to anyone other than as may be agreed to in writing by Releasees, any of the terms of this Release, including but not limited to the amounts, terms or conditions of any sums payable to Releasors hereunder, except as may be reasonably and lawfully required by taxing authorities, the Centers for Medicare & Medicaid Services (CMS) or Releasors' attorneys, accountants, certified financial planners or court-appointed or court-approved guardians or trustees.