

BUTTE SCHOOLS SELF-FUNDED PROGRAMS

POLICIES & PROCEDURES MANUAL

Subject: **MEMBER DISPUTE RESOLUTION**

Section: **5.5**

I. PURPOSE

- A. To provide standards of conduct which, if followed by members in handling claims, will reduce if not eliminate the incident of controversy between BSSP and its members.
- B. To provide a forum for the resolution of problems involving the handling of claims.
- C. It is implicit in these guiding principles that members and BSSP adopt conduct which refrains from creating additional difficulty for the member in the handling of a case or increase the danger of the member being liable in excess of its policy limit.
- D. Nothing in these principles shall in any way abridge the rights of or duties owed to the member. It is believed that the interest of all parties will be better served by adherence to these principles. Nothing in these principles relieves BSSP or the members of obligations under the MOC.

II. SCOPE

These obligations shall be applicable to all coverages provided and claims and suits arising thereunder involving BSSP and its members.

III. DEFINITIONS

- A. "Member" shall mean BSSP members.
- B. "Provider" shall mean BSSP.

IV. GUIDING PRINCIPLES

A. Member Conduct

- 1. The member must perform its duty of investigating promptly and diligently all losses, including those cases in which it is apparent that its policy limit may be consumed.
- 2. Liability must be assessed on a basis of all relevant facts which a diligent investigation and pertinent discovery can develop and in the light of applicable legal principles. The assessment of liability must be reviewed periodically throughout the life of the claim.
- 3. Evaluation must be realistic and without regard to the member's coverage limit.
- 4. It is the member's responsibility to report claims to BSSP or Claims Administrator pursuant to the MOC.

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5. Situations may arise where the cost of damages alone would support payment of a demand, but the member is unwilling to pay. BSSP Board will have the discretion to review each case on its merits and not just cost of damages.

B. Handling Judgment

1. In the event of a judgment, the member shall consult the provider as to further procedure. If the member plans an appeal with the concurrence of BSSP and excess provider, the expense shall be shared by the member and the provider, in such manner as they may agree upon.
2. If the member should elect not to appeal, taking appropriate steps to pay or to guarantee payment of its coverage limit, it shall not be liable for the expense of the appeal or interest on the judgment from the time it gives notice to the provider of its election to appeal and tenders its coverage limit.
3. BSSP has the right to file an appeal at their own expense being liable also for the interest accruing on the entire judgment subsequent to the member's notice of its election not to appeal.
4. If BSSP does not agree to an appeal, they shall not be liable but may elect to share the cost of any appeal by the member.

C. BSSP's Conduct

BSSP may recommend a settlement, but will refrain from coercive or collusive conduct designed to force a settlement. It shall never make a demand upon a member to settle a claim. In any subsequent proceedings between BSSP and members, BSSP's failure to make a demand that the claim be settled shall not be considered as having any bearing on BSSP's claim against the member.

V. CONFLICT RESOLUTION

Communication is the cornerstone to good claims resolution. Everyone is aware of the expense and time involved in the resolution of factual and legal issues through the courts of law. Self-insurance requires an expertise that is not always found in the courts.

- A. Prior to any settlement conference, when in the opinion of BSSP's Claims Administrator, excess coverage is likely to be exposed, BSSP shall invite a representative from each member to review the broad strategy for handling the claim. If a consensus cannot be reached, the claim shall be put before a panel for review.

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B. Appeal Panel - Within 90 days, a panel shall review the disputed claim. The panel will consist of:

1. One representative selected by BSSP;
2. One representative selected by the member; and
3. One representative chosen by consensus of the above representatives.

The panel shall make recommendations to the parties on the resolution of issues and the determination of the controversy. The parties may accept the recommendations.

C. Arbitration - If the parties do not accept the panel's recommendations, the next step in the process shall be binding arbitration. The matter will be submitted to a mutually agreed arbitrator or panel of arbitrators for a determination. The decision of the arbitrator is final. All parties agree to abide by the decision of the arbitrator. The cost of arbitration will be shared equally by the parties involved.

VI. ENDORSEMENT

All members and BSSP shall endorse these guiding principles.