

## **Legal 'HMO' fights off suits; Pre-Paid Legal Services faces first fraud trial in Miss.**

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### **Body**

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One of the largest legal services benefits companies in the U.S. will soon learn what it's like to be a defendant facing a jury.

In October, the first of dozens of suits filed in at least three states against Pre-Paid Legal Services (PPLS) will go to trial in Mississippi.

Plaintiffs allege that PPLS-which claims on its Web site to offer "Legal Service Plans to provide access to justice for middle-income individuals and families"-made promises it didn't and couldn't possibly keep.

The suits allege that a trained sales force used fraudulent sales practices to promise broad coverage for about \$20 a month-entitling members to "equal justice under the law"-but instead what they got were contracts full of exclusions.

*Mealy v. Pre-Paid Legal Services Inc.*, No. 02-0082, Wilkinson Co., Miss., Cir. Ct.

In its pleadings, PPLS denies all allegations of wrongdoing. Ironically, PPLS may not have insured itself for its own defense. Its last quarterly 10-Q Securities and Exchange Commission filing states it has spent \$3 million defending these and securities-related lawsuits.

Brunini, Grantham, Grower & Hewes of Jackson, Miss., the firm representing PPLS, did not return calls for comment. PPLS' general counsel, Keri Prince, said the company did not comment about pending litigation.

Co-defendant Dyre Law Firm of Jackson, Miss., had contracted to represent PPLS' approximately 11,000 Mississippi members. The Dyre firm had about six attorneys in addition to Arnold Dyre, according to John Clark of Daniel Coker Horton & Bell of Jackson, Miss., who represents the Dyre firm. Clark denied the plaintiffs' allegations against the law firm.

## **Revenue of \$30 million**

A reading of a standard member's policy discloses that a law firm has full discretion to determine whether or not a legal matter falls within the terms of the policy. Legal work determined to be outside or in excess of a policy, or explicitly excluded, was billed at 75% of a firm's normal rates. In Mississippi, that meant about \$90 per hour if a member chose to proceed by signing a contract with the Dyre firm. The Dyre firm grossed about \$700,000 a year from PPLS, a flat fee amounting to about 30% of what PPLS charged its Mississippi members-statistics that lawyers and PPLS' counsel confirmed. PPLS has revenue of more than \$30 million a year from its North American legal services benefit businesses, Prince said.

"The members were promised unlimited access to a law firm of PPLS' choosing," said plaintiff's lead counsel Brad Pigott of Pigott Reeves Johnson & Minor, in Jackson, Miss. "What that turns out to mean is that you can call them and if you could get through you might be able to talk to a lawyer who might or might not call you back and who might or might not have expertise in the area of the law you needed."

Similar suits, all with multiple plaintiffs, are pending in Alabama and Oklahoma.

Pigott, who was the U.S. Attorney for the Southern District of Mississippi from November 1994 to January 2001, asserted that "you cannot solve people's legal problems over the phone." He compared PPLS' policy terms to a medical HMO in which doctors diagnose and treat patients over the phone.

The policy does allow a member access to an attorney under limited circumstances. An attorney could write, at no additional charge, up to three letters a year on a member's behalf-a limit of two on any one matter-if the attorney deemed it warranted in his or her sole discretion.

And if a member is sued for an event that was not foreseeable at the time he or she signed up, the member would be entitled to 57.5 hours of trial time, but a scant 2.5 hours of pretrial work.

A PPLS brochure promises "Justice for all" and lists more than 100 purportedly covered situations, with a smaller-print note to "Refer to your contract for specific coverage." A comparison of the brochure to the contract plainly shows disparities. For example, many occurrences on the list such as "service is refused at a restaurant . . . right to privacy has been invaded," would not be covered, with the exception of a maximum of two letters, because the filing of a lawsuit is not covered under the policy.

The brochure also lists things like "accused of a crime not committed." However, the contract states that for criminal defense to be covered the conduct must arise "as a result of . . . conduct within the scope of his or her legal employment," and the same 2.5-hour free limit on pretrial work applies.

Pigott asserted that his clients were not sophisticated and that the policy excluded just the type of problems that they were likely to run into, such as wage garnishment, divorce and child custody. Matters in which the insured was under the influence or impaired by alcohol, or drugs, even if prescribed, are also excluded.

In deposition testimony, PPLS officials claimed that there was no deceit because all matters were covered by the telephone consultation benefit. Additionally, PPLS officials noted that the terms of the policy entitled members to retain a lawyer with a 25% reduction in hourly fees for those matters not covered beyond the discretionary phone call.

Pigott claimed that some of his clients have suffered other injuries besides being duped, such as one who had a car wrongfully repossessed, or another who lost visitation rights with his children. In short, they didn't get the representation that was promised them when they signed up, he said.

### **'Nonexistent claims'**

Clark, the lawyer for the Dyre firm, said that his reading of plaintiffs' depositions revealed that "a number of plaintiffs had made multiple contacts with the Dyre firm and that a number had no complaints. Some have complaints, but nominal to nonexistent damages," he said.

"A typical complaint was that after a few phone calls they were asked to come in and sign a contract on an hourly basis. Most of them didn't call back or went to different lawyers on their own or were referred by Dyre to other lawyers who were required to discount their fees by 25%. I can't think of one with real damages," Clark said.

Pigott is seeking punitive damages against PPLS "because of the national pattern of wrongful conduct."

Like Amway, the PPLS policies are sold in a multileveled system. PPLS holds conventions and sales meetings, which Pigott called "evangelical." The company sells a

*Fast Start to Success* training video to its sales force for about \$250. Those salespeople can make additional commissions from the sales made by others they bring into the sales force.

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