

Larry W. Jones
 Law Office of Jones & Garber
 An Insurance Company Law Division
 700 SW Higgins Avenue, Suite 108
 Missoula, MT 59803-1489
 (406) 543-2420
 (406) 829-3436 (FAX)
 Attorney for Liberty Northwest Ins. Corp.

FILED

JUN 27 2005

OFFICE OF
 WORKERS' COMPENSATION JUDGE
 HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

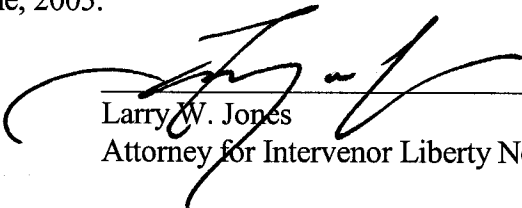
EULA MAE HIETT,)	WCC No. 2001-0278
)	
Petitioner,)	
)	
vs.)	LIBERTY NORTHWEST
)	INSURANCE CORPORATION'S
MONTANA SCHOOLS GROUP INSURANCE)	OPENING BRIEF REGARDING
AUTHORITY,)	SCOPE OF DECISION
)	
Respondent/Insurer,)	
)	
MONTANA STATE FUND,)	
)	
(Intervenor))	
)	
LIBERTY NORTHWEST INS. CORP.,)	
)	
(Intervenor))	

COMES NOW Liberty Northwest Insurance Corporation ("Liberty Northwest"), and pursuant to this Court's Minute Entry and brief schedule dated May 11, 2005, hereby files its Opening Brief Regarding Scope of Decision and incorporates by reference the arguments contained in the Montana State Fund's Opening Brief Regarding Scope of Decision. For the reasons stated in the Montana State Fund's brief, Liberty Northwest asserts the Montana Supreme Court's decision in Hiett v. Missoula County Pub. Sch., 2003 MT 213, 317 Mont. 95, 75 P.3d 341, did not abrogate the exclusion of palliative and maintenance care codified at MCA § 39-71-704(1)(f), nor did it wholly abrogate the secondary medical services provision codified at MCA § 39-71-704(1)(b).

DOCKET ITEM NO. 97

Also in the Court's Minute Entry of May 11, 2005, it notes in the last hearing on this matter I raised the issue of the common fund claim not having been pled in the original petition. The Court noted I could preserve this issue in my initial brief. Given the recent Montana Supreme Court decision in Schmill II, I am abandoning that issue.

DATED this 27 day of June, 2005.



Larry W. Jones
Attorney for Intervenor Liberty Northwest Ins. Corp.

CERTIFICATE OF SERVICE

I hereby certify that on the 27 day of June, 2005, I served the original of the foregoing LIBERTY NORTHWEST INSURANCE CORPORATION'S OPENING BRIEF REGARDING SCOPE OF DECISION, by FAX (406) 444-7798 and first-class mail, postage prepaid, on the following:


Ms. Patricia J. Kessner
Clerk of Court
Workers' Compensation Court
P. O. Box 537
Helena, MT 59624-0537

and a copy of the same to the following:

Sydney E. McKenna
Tornabene & McKenna, PLLC
P. O. Box 7009
Missoula, MT 59807-7009
Attorney for Petitioner
Via FAX 327-8706 & U.S. Mail

Leo S. Ward
Browning Law Firm
P. O. Box 1697
Helena, MT 59624-1697
Attorney for Respondent
Via FAX (406) 443-6883 & U.S. Mail

Bradley J. Luck
Garlington, Lohn & Robinson, PLLP
P. O. Box 7909
Missoula, MT 59807-7909
Attorney for Montana State Fund
Via FAX 523-2595 & U.S. Mail



Cindy Brown Felton