STAVENJORD Identification & Notification

April 26, 2007

Introduction

- MSF is here today to verify factually that it is not *impracticable or impossible* to properly identify and provide notice to potential Stavenjord II beneficiaries
- MSF does not agree with Stavenjord's suggestion that this proceeding should be step one.
 - MSF provided its reports and data explaining fully its identification process and plan of notification
 - The MSF report was analyzed and responded to by Stavenjord counsel
 - MSF is here to explain and answer any question the court may have

EXHIBIT /

- MSF asked for the pre-hearing conference so it could provide the Court with the information it wanted to see and hear
 - MSF discussed with a broad group (lawyers and claims experts) and developed this explanatory presentation
 - MSF will verify through the testimony of Cris McCoy and Bill Visser that
 it is not impossible or impracticable to identify Stavenjord II potential
 beneficiaries.
- Cris and Bill are the designated internal contact persons on the Staveniord project
 - Adjusters have been advised to contact them and refer claims to them
 - They oversaw our identification process and will do the same with the partification
 - They will be integral to any implementation efforts
 - They are present today to provide insight and detail to the identification and notification process
 - Dual testimony
 - They are available to answer any questions from the Court
 - We request finalization of our presentation before any modified cross examination is allowed by Stavenjord's counsel.

Important Dates

- Applies to claims arising after June 30, 1987 and prior to May 23, 2001.
- Second Supreme Court decision denying common fund status 10-6-06
- Request for rehearing denied 11-9-06

MEDIA TYPES & EXAMPLES

- DB02
- > CMS

DB02

DB02 was a disk operating system (DOS) maintained by the State of Montana, and was the initial system utilized by MSF beginning in 1983. Its primary function was data storage for MSF, the Division of Workers' Compensation, and the Department of Labor & Industry. Beginning June 1988, enhancements were made to provide some limited functionality such as indemnity and medical payments, reserving detail, and a limited note field. This system was ultimately retired by MSF in February 1997, and a copy of the database as it existed at the point of conversion, archived. Claim files and/or related claim activities during this period were maintained in hard copy folders. After closing and remaining inactive for a period of 3 years, hard copy files were purged and copied to microfiche for ultimate storage with the Records Retention Bureau.

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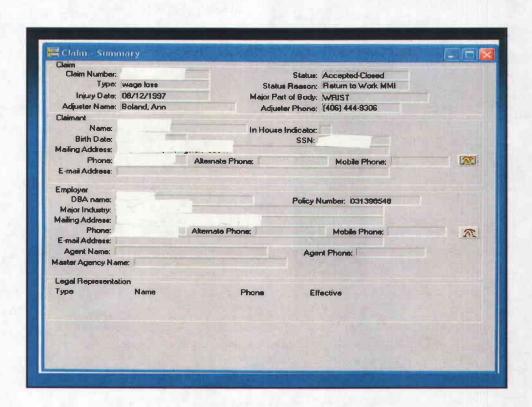
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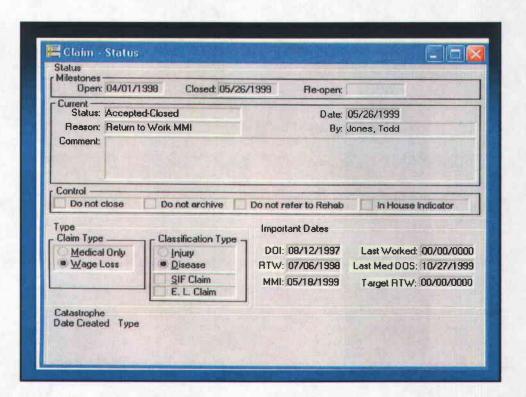
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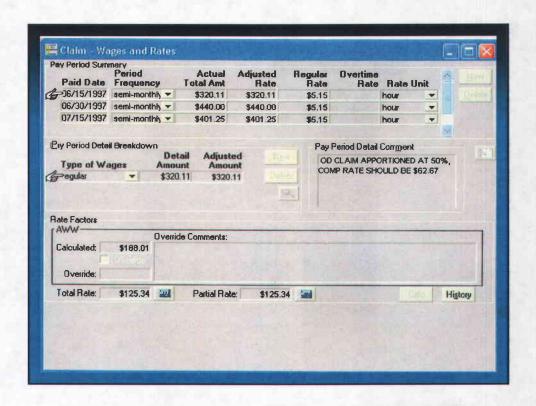
R1230	MEDICAL RESERVE	WORKSHEET UPDATE	RESERVED: 05/	20/05 27 22
ACCIDENT:				
STATUS: 13	TYPE DISAB: 2 2	ERO RSRV BAL. N	RSRV PARTY: AB2	EXAM: AB2
BENEFITS -	RESERVED	AMOUNT PAID	HORV PARTI: ADZ	EXAM: ABZ
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HOSPITAL:	140.94		PAID:	0.00
PHYS REHAB:	650.00		MIRA RSRV BAL:	124 017 66
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VOC REHAB:	1,243.40	1,243.40	PAID:	0.00
PANELS:	0.00		IAID.	
LTC FAC:	0.00		WKSHT TOTAL RSRV:	127 291 00
NURSE:	0.00		PAID:	3,380,80
DRUGS:	15.35			3,500.00
AMBULANCE:	0.00		BALANCE:	123,910.20
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PROSTHESIS:	0.00		INDEMNITY RSRV:	62,500,15
MED SUPPLY:	0.00		CASE TOTAL RSRV:	189.791 15
CLAIMANT:	0.00			
MISC:	150.00		RSRV RVW D	T: 11/15/95
MORTICIAN:	0.00			
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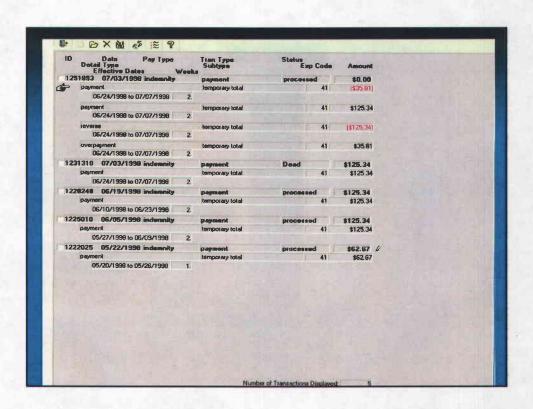
CMS

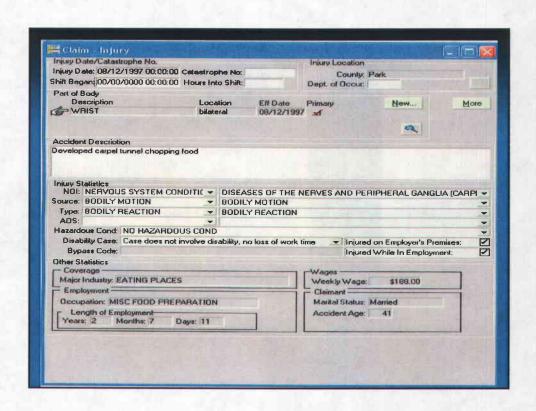
- CMS (Claims Management System) was brought on line February 3, 1997 as MSF's primary electronic 'file' for adjusting compensation claims, and recording relevant adjusting activities and details. It was developed by IBM as Oracle based, windows driven technology, which was considered 'cutting edge' at the time. As an adjunct to CMS, MSF also developed a work management system (WMS), and adopted an optical imaging system, and no longer maintained paper or hard copy files.
- CMS was custom designed and developed specifically for MSF and this jurisdiction. While enhanced reporting capabilities, compared to DB02 were included in the design phase, its primary function was to enhance staff claim management, make work flows more efficient, and, ultimately, to better serve our customer base.

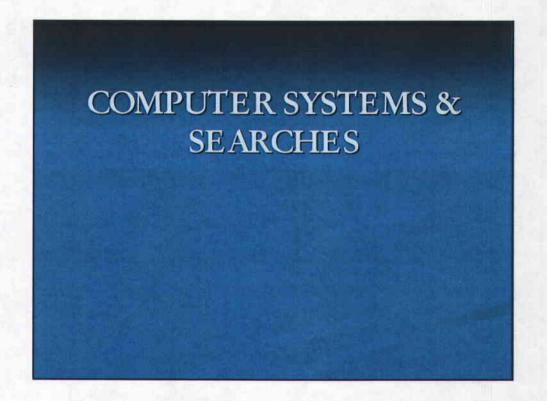












INITIAL SEARCH

- As explained in paragraphs 26-30 of the Joint Statement of Stipulated Facts
 - Initial computer run identified 2,939 claims meeting the established criteria for potential Stavenjord claims
 - 578 claims were identified as settled

Identification Process

- An initial data run to identify claims potentially affected by Stavenjord was completed 01/24/04, using the following data fields:
- Claim class type code = 'od';
- NOI code = 990 or 562
- Source of injury = 400;
- TTD or PTD benefits paid, but no PPD:
- Benefit type code = 'od';
- Date of injury >= 07/01/87;
- Any claim with the word 'repetitive' in the description of accident field on FROI
- This data run returned 3,099 claims meeting the above criteria.

INITIAL SEARCH (CONT.)

- A second independent computer run identified 18 claims in injury status with benefit transactions coded as ODs
- Internal actuary identified 586 claims coded as injuries with indicators suggestive of ODs
- Total claims identified for review 3,543
- To be subsequently refined by electronic and manual review

SECOND SEARCH

Following *Sdmill II*, a second data run was requested on 06/14/05. This run expanded the data fields/parameters initially used, using the following criteria:

- Claim classification type of OD;
- DOI equal to or greater than 07/01/87 to present;
- Apportionment offset detail in financial transactions;
- Apportionment field updated;
- Claim Injury screen reflects 'occupational disease';
- Nature of injury is 'disease', 'respiratory', or 'nervous system';
- Source of injury is 'bodily motion', 'infectious', or 'dust'
- Type of injury is 'bodily reaction' or 'exposure'.
- No PPD benefits have been paid;
- Occupational Disease Award' expense code in financial transactions;
- Weekly SS offset rate in financial transactions is less than the calculated weekly; SS offset rate

This data run contains a total of 4,797 claims meeting the above criteria

FURTHER REFINEMENTS

- Of the additional 1,698 claims identified in the second run, 624 would be directly attributable to expanding the end date of the run (01/24/04 v 06/14/05), leaving an additional 1,074 claims identified. This difference relates to the presence and/or absence of exclusionary criteria as the other significant difference between the data runs. In the initial data run, exclusionary criteria to further filter the data retrieved was used, which included:
 - Denied claims:
 - Medical only claims:
 - Disputed settlements:
 - Settlements with disputed liabilities.
 - In the second data run, the only claims excluded after identification
 of all files meeting the criteria were medical only claims.

REVIEW PROCESS/FURTHER REFINEMENT

- Following identification, a review of the data available electronically was undertaken for each file identified. The scope of the review included:
 - Verification the claim had been accepted as an occupational disease versus an injury using claim classification; review of the description of injury; file notations; and/or documents in Image;
 - Identification of potential Schmill files through review of indemnity payments made to determine whether an apportionment had been applied; file notations for reference to an apportionment requested and/or received; and documents in Image which referenced an apportionment;
 - Whether PPD benefits had been paid on the file
 - Whether the file had been settled through review of file status; indemnity payments made; file notations; documents in Image; and/or comparison to the ERD settlement list;
 - Whether claimant was deceased through review of file notations; documents in Image; and/or the Social Security Death Index;

REFINEMENT (CONT)

- At the time, 751 files were excluded as injuries, rather than an occupational disease exposure. Of the remaining 4,046 claims, 925 were settled and 104 are deceased.
- 2,669 meet the criteria for an in-depth Stavenjord review, but only 1,849 have a date of exposure between 07/01/87 through 05/22/01.

REFINEMENT (CONT)

Report to the Court (January 22, 2007)

3,017 - Potential Stavenjord notice list

Total included 348 claims requiring manual review

Manual review results:

Injuries

Settled

Deceased

Maybe

NO.

297

Total

Revised Stavenjord notice list 2,966 (3,017 – 51)

Total including deceased

3,072 (2966 + 106)

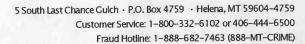
DOLI INPUT

- Review of DOLI computer run
 - Confirmed MSF process
- Suggested additional search criteria
 - Determined to be of no additional value

QUESTIONS?

NOTIFICATION

- Letter and questionnaire mailed to all potential beneficiaries
- Address checking on returns
 - Lexis Nexus
 - Merlin
 - · MSF will report results to Court
- All files on notification list will be reviewed
- Notification of results sent to all claimants





March 8, 2007

Re: Claim No. 3-

Addressee Address City, State Zip Code

Dear

A Montana Supreme Court decision, *Stavenjord v Montana State Fund*, may entitle you to additional benefits. In *Stavenjord*, the Court found that workers suffering from an occupational disease, such as you, are entitled to the same benefits as workers suffering from an injury. Montana State Fund (MSF) is reviewing certain workers' compensation claims to determine eligibility for additional permanent partial disability benefits which may be due under *Stavenjord*.

A medical report is currently on file with MSF indicating you have an impairment rating of __%. The impairment rating was determined by the physician who measured your loss of function. A copy of this report is enclosed. Insofar as Dr. _____ has indicated you sustained no permanent impairment as a result of your occupational disease, no permanent partial disability benefits would be due.

Therefore, you are entitled to receive __% of ____ weeks, which is the maximum allowed by law. This is paid at your permanent partial rate of \$____ per week from [MMI], for a total award of \$_____.

Our file Information indicates you returned to work in your time of injury employment on ____. If this information is not correct, or you were paid less following your return to work as a direct result of your occupational exposure, and you have a ratable permanent impairment objectively established by your doctor, you may be entitled to additional permanent partial disability benefits beyond the impairment.

Your eligibility for additional benefits depends on the several factors set forth in section 39-71-703 (year). For your convenience, a copy of that statute is provided for your review. To assist MSF in evaluating any additional benefits you believe may be due you, please complete the attached form and return it to my attention at Montana State Fund. You will be contacted after we receive this information and advised of further entitlement, or if additional information must be gathered.

Language if additional portions of the 703 benefits are undisputed.



In addition to compensation for your impairment, information on your file indicates that you are entitled to further permanent partial disability benefits under the (applicable year) version of the Workers' Compensation Act. Your additional benefits are calculated as follows:

Age:
Education:
Wage Loss:
Restrictions:

Therefore, you are entitled to receive __% of ___ weeks, which is the maximum allowed by law. This is paid at your permanent partial rate of \$___ per week from [MMI], for a total award of \$____.

Language if additional portions of the 703 benefits are disputed.

You may be entitled to additional permanent partial disability benefits beyond the impairment. Your file, however, contains insufficient information at this time to make that determination. Your eligibility for additional benefits depends on the several factors set forth in section 39-71-703 (insert year). For your convenience, a copy of that statute is provided for your review. To assist MSF in evaluating any additional entitlement, please complete the attached form and return it to my attention at Montana State Fund. You will be contacted after we receive this information and advised of any further entitlement, or if additional information must be gathered.

Questions or concerns specifically related to the *Stavenjord* benefit issue only should be directed to Cris McCoy (444-1345) or Bill Visser (444-9328). All other issues related to the handling of your claim should continue to be brought to the attention of your claims examiner, ____.

If you disagree with this decision concerning your workers' compensation benefits, please provide Montana State Fund with a written demand. The demand should contain sufficient explanation and documentary evidence to allow us to thoroughly evaluate your request. A response will be provided within 15 days. If you are not satisfied with Montana State Fund's response to your demand, you may request determination of the dispute through a non-binding mediation process. Mediation request forms are available from the Employment Relations Division of the Department of Labor and Industry at PO Box 1728 (1805 Prospect), Helena, MT 59624 (59620) or by calling (406) 444-6534.

Sincerely,

Cristine E McCoy
Project Specialist
(406)444-1345
cmccoy@montanastatefund.com

Enclosures: (3)

"STAVENJORD" INFORMATION REQUEST

1 vanic			Claim number	
I have a Suprem	valid cla e Court	im for additional c decision in "Staven	nation to the Montana Sta ompensation as a result o jord". and received compensatio	of the Montana
1 Suffer	eu an Oc	cupational Disease	and received compensation	on under the OD-act.
			cal determination provided by a shed by the American Medical A	
a. I r	eceived a	n Impairment Rati	ng from my physician of	0/0
			do know/think that I did	
			a direct result of my O.D.	
If	Yes, plea	se explain:		
2. Wage	Loss du	e to my Occupation	al Disease	
		-	I returned to work at my	y time of injury
	ob. Yes_			
		er a wage loss when ent. Yes; No	I returned to work in alt	ternative
	mpioyme	ent. 1 es, 140		
	nswered Y eturn to v		5 years of employment hi	istory from your release
from	to	employer	occupation	wage per hour
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88-91

EXHIBIT .sapper

Claim number 03-2003-

3. At the time of the onset of my disease (as indicated on your claim for my level of education was:	m)
less than 9 years 9 through 12 years More than 12 years	

4.	Atı	mv	time	of	iniury	iob	I	was	required	to	do:
	4 2 4 1	LAR.Y	THE C	VI	AAA S COL A . Y	. 00	-	11 4417	1 40 0111 000		

Heavy labor activity (lift over 50 lbs occasionally or up to 50 lbs frequently) _____ Medium labor activity (lift up to 50 lbs occasionally or up to 25 lbs frequently) ____ Light labor activity (lift up to 25 lbs occasionally or up to 10 lbs frequently) ____ Sedentary labor activity (lift up to 10 lbs occasionally or up to 5 lbs frequently) ____

As a result of my O.D. my physician limited me to:

Medium labor activity ____ Light or sedentary labor activity ____