

# **Exhibit E**



Revised Orderly Plan of Liquidation (E.O.D. 9/17/04, D.E. # 75). The Independent Fiduciary also gives notice of the numerous claims, that have been determined in amount and classification, to which no objection by any claimant remains. But before closer examination of these matters, the Independent Fiduciary provides the Court general update and status of the IUIIW Fund estate.

## **II. General Update**

As a general matter, the Independent Fiduciary was charged with a) addressing the claims submitted against the Fund, and b) marshalling the assets of the Fund.

In marshaling the assets of the Fund, the Independent Fiduciary has pursued numerous claims against numerous parties. Only two pending matters against two individual defendants remain: 1) a federal district court action, in this district, against a former attorney to the Fund for malpractice and breach of contract, and 2) a Georgia State Court action against one individual/business agent/enroller of the Fund (and his company) for negligence, breaches of trust and other state law claims.

Regarding the Independent Fiduciary's addressing claims against the Fund, the remainder of this filing examines the efforts taken in that regard and sets forth the claim determinations to which no objection exists. As to the few

claim determinations to which claimants' objections still remain, the Independent Fiduciary has also filed a motion requesting approval of a recommendation on how to proceed to address those objections.

When the two pending lawsuits are resolved and when the above-referenced claim objections are addressed, the Independent Fiduciary will seek the Court's approval for distribution of the Fund's assets to pay, pro rata, the approved claims and will seek an order from the Court discharging her as Independent Fiduciary and closing the matter.

**III. Claims Against the IUIIW  
Fund Estate/Proof of Claim Process**

On September 17, 2004, the Court approved and otherwise adopted the Revised Orderly Plan of Liquidation (D.E. #75) ("Plan"). Under the Plan, a Proof of Claim process was approved and, thereafter, implemented. That process involved the development of a claims database; the issuance of Proof of Claim forms and a Statement of Unpaid Claims to all known claimants; the review, adjustment, determination and classification of claims submitted in the Proof of Claim process; the notification to all claimants regarding the Independent Fiduciary's determination of the classification and the approved amount payable on each claim; and a procedure by

which the claimant could object and request the Independent Fiduciary to reconsider her determination.

Under the Plan, a claims bar date of March 15, 2005 was set.

a) Development of the Claims Database.

At the time of the Court's Preliminary Injunction, the medical claims system was maintained by Greentree Administrators, the Fund's then-third party administrator. The information contained in that medical claims system was transferred on December 3, 2004 to Receivership Management, Inc. (RMI), the firm assisting the Independent Fiduciary in the liquidation of the Fund. The medical claims information was also loaded into a separate database and was augmented when additional medical claims information was submitted with a medical provider's or participant's Proof of Claim. This "augmented" database constitutes the Proof of Claim database for the Fund. Additional databases containing participant enrollment information, Fund enroller/agents, and participating employer and employer groups were also established and are maintained by RMI.

b) Issuance of Proof of Claim Forms and Statements of Unpaid Claims.

Between December 28, 2004 and January 4, 2005, approximately 8950 Proof of Claim forms were mailed to the Fund's participants and the providers who had provided medical services to those participants. Included with the Proof of Claim form was a Statement which indicated the unpaid claims reflected in the Fund's medical claims system for the particular participant or provider. The Proof of Claim materials specifically advised the recipients to review the Statement, instructed them on how to complete the Proof of Claim form and emphasized to them that that Proof of Claim form had to be returned to the Independent Fiduciary no later than March 15, 2005. Recipients of the Proof of Claim form could accept the amounts listed on the Statement reflecting unpaid claims, reject the amounts listed on the Statement and submit supporting information for a different amount, or add additional unpaid claims not reported on the Statement, along with supporting information for these unreported amounts. Contact information for the Independent Fiduciary was also provided and the recipients were informed to contact the Independent Fiduciary with any questions.

c) Review, Determination and Classification of Amounts Claimed by Proofs of Claim.

Three thousand three hundred forty-three (3,343) Proof of Claim forms were received by the March 15, 2005 deadline. Upon receipt, the Proof of Claim forms were logged, assigned a Proof of Claim number (POC#) and reviewed for completeness. Once determined complete, the amounts claimed by Proofs of Claim were then identified in the claims system or processed, reviewed and added into the claims system.<sup>1</sup> Two hundred eleven (211) Proof of Claim forms were received after the March 15, 2005 deadline and were classified as "late-filed." These Proof of Claims were also reviewed, processed, and added to the system. However, the amounts assigned to these late-filed claims were set at "zero" because of the late-filed classification of the claim.

Similarly, Proofs of Claim which set forth claims for services rendered to Fund participants during a time which the participant was not a member of the Fund were also reviewed and processed with a claim payable amount of "zero."

Through the claims review process, the Independent Fiduciary determined what claims, in whole or in part, were to be recognized/approved. Denial of a claim, in whole or in part,

---

<sup>1</sup> To be clear, a claim that was reviewed, processed and added to the system did not, in every case, result in a claim payable amount greater than zero.

or reduction in amounts claimed, would occur for various reasons based upon the review of the claim and attendant information - e.g., application of deductibles, claim relating to a time period that was outside of Plan coverage for the participant, claims being duplicative of others submitted, etc.

The total gross unprocessed amount claimed by all Proofs of Claim received was \$17,802,041.00. After review and processing -- wherein claims were adjusted, denied in whole or in part or approved in whole or in part -- the total Independent Fiduciary-approved claim payable amount for timely-filed Proofs of Claim is \$5,807,232.30.<sup>2</sup>

---

<sup>2</sup> The difference between the gross amount claimed and the reviewed Independent Fiduciary-approved claim payable amount occurs for several reasons. First, in many instances, a Proof of Claim was submitted by both the Fund participant and the medical services provider for the same medical service. These duplications were, in turn, "weeded out" through the review process. Second, many providers and participants submitted claims for the amount billed. The Fund's benefit design involved several different types of coverage amounts, but generally paid 80% of a discounted medical charge, after the participant met his/her co-payment, co-insurance, deductible, and maximum out of pocket amounts. The Fund, as structured, would rarely pay 100% of a billed charge without some provider network discount. Third, many claims were submitted by providers for services to participants who were not, at the time services were rendered, participants of the Fund. For example, claims for services to participants of many different plans were received including, but not limited to, Total Welfare Benefit Fund, the International Union of Petroleum and Independent Workers, Manufacturing and Industrial Workers Union Benefit Fund, and the International Union for the Natural Health, Complementary & Alternative Medicine Professions Health & Welfare Fund (IUNHCAMP). Those claims were not accepted. Fourth, the total reviewed and processed claim payable amount does not include claim



e) Objection/Requests for Reconsideration by Claimants.

Of the twenty-one (21) objections/requests for reconsideration, eleven (11) were in relation to timely-filed claims which, for various reasons, the Independent Fiduciary's denied all or part of the particular claim/claimed amount. In reviewing these eleven (11) objections, the Independent Fiduciary agreed with three (3) and made appropriate adjustments and reclassifications with notice back to the objecting claimants. As to the remaining eight (8), the Independent Fiduciary's review did not yield a change in her determination. In communicating that decision to those eight (8) claimants, the Independent Fiduciary stated that if they contacted her and requested it, she would consider requesting this Court to adopt a procedure for further review of their objections/requests for reconsideration. None of the eight (8) have made any request for further review of their denied claims.

The remaining ten (10) of the twenty-one (21) claimants requesting reconsideration objected to their claims being classified as "late-filed." In responding to these requests for reconsideration, the Independent Fiduciary informed those ten (10) objecting claimants that because the March 15, 2005 bar date for claims was set/approved by the Court, she did not have

the latitude to relax that date. The Independent Fiduciary did inform those objecting claimants that she would petition the court for a procedure for further review of their objections/requests for reconsideration of the "late-filed" classification.<sup>4</sup>

f) Summary of Results of Proof of Claim Process.

Through the Proof of Claim process, the Independent Fiduciary has reviewed and approved a total of \$5,807,232.00 in claims. Attached as Exhibit 1 is a listing of those approved claims setting forth Proof of Claim number, claimant name and other information, including in the far right column, the approved claim amount. Attached as Exhibit 2 is a listing of the timely-filed claims which the Independent Fiduciary has denied as a result of the Proof of Claim review process.<sup>5</sup> Exhibit 3 sets forth all of the claims that were denied by the Independent Fiduciary because they were late-filed and to which

---

<sup>4</sup> The Independent Fiduciary's request for a procedure for further review of these objections/requests for reconsideration is addressed in a parallel filing - Independent Fiduciary's Motion for Approval of Recommendation on Procedure to Address Objections to Claim Determinations.

<sup>5</sup> Please note that a POC number/claimant may well appear on both Exhibits 1 and 2 because in many instances, the Independent Fiduciary, in reviewing a claim, would approve portions of the claim, while denying other portions of it.

no objection has been lodged.<sup>6</sup> None of the claim determinations evidenced by Exhibits 1, 2 and 3 are being objected to by the claimants.<sup>7</sup>

#### **IV. Notice of Filing to Claimants**

So as to provide them with status concerning the Fund and this proceeding, the Independent Fiduciary is sending a postcard notification (a sample attached as Exhibit 4) to all who had filed claims.<sup>8</sup> That postcard notification informs all such claimants of this filing and a website where they can view it.

#### **V. Conclusion**

Accordingly, through this filing, the Independent Fiduciary gives a) report as to the efforts taken and status of the Proof of Claim process initiated and conducted pursuant to the Court-approved Revised Orderly Plan of Liquidation (D.E. ##75 and 76), and b) notice of the claim determinations she has made to which no objection has been made or to which no objection currently remains.

---

<sup>6</sup> The claims set forth in Exhibit 3 all have "0" approved claim amounts. The amounts shown on Exhibit 3 are the amounts that would have been approved had the claim been timely-filed.

<sup>7</sup> Not included in Exhibit 3 are the ten (10) claimants who continue to object to their claims being denied/classified as "late-filed."

<sup>8</sup> The ten (10) claimants who are being served with the parallel Motion for Approval of Recommendation on Procedure to Address Objections to Claim Determination will not be mailed a postcard notification.

This 30th day of July, 2008.

Respectfully submitted,

/s/J. Graham Matherne

J. Graham Matherne, #11294  
Wyatt, Tarrant & Combs LLP  
2525 West End Avenue, Suite 1500  
Nashville, TN 37203-1423  
615) 244-0020

*Counsel for Jeanne Barnes Bryant,  
Independent Fiduciary for the  
International Union of Industrial  
and Independent Workers Benefit  
Fund*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 30, 2008, a true and correct copy of the foregoing was filed electronically with the Clerk of the Court using the CM/ECF filing system which will automatically send email notification of such filing to all counsel of record.

/s/J. Graham Matherne