

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

FILED

JAN 19 2010

At _____ M
STEPHEN R. LUDWIG, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

HILDA L. SOLIS,)
Secretary of Labor,)
U. S. Department of Labor,)
)
Plaintiff,)
)
v.)
)
HARRIS N.A.)
Defendant.)
)

FILE NO. 2:07-CV-00068 RL

**FOURTH STATUS REPORT OF THE INDEPENDENT FIDUCIARY
FOR MY SMART BENEFITS INC. TRUST FOR OUTSTANDING CLAIMS**

On August 14, 2009, the Independent Fiduciary filed her Third Status Report (D.E. #106) outlining events that had occurred in connection with the processing of claims since the Court's December 8, 2008 Opinion and Order regarding the Independent Fiduciary's Revised Plan of Distribution (D.E. #81). This constitutes the Independent Fiduciary's Fourth Status Report to update the Court on her progress since her Status Report of August 14, 2009.

ACTIVITY

Procedure of Claims Processing

From the documents submitted to the Independent Fiduciary, a database was created listing the state of the employer, the employer name, the member's name and address, the dates of service, the provider's name, the billed amount, the first

adjudicated amount, the amount Mr. Hogge had adjudicated (if any), the final adjudicated amount, and the reasons behind the adjudication. The submitted documentation was reviewed to determine the date of service, the type of service, the provider, and the billed charge. The group application or plan document or summary plan description (provided by Mr. Hogge) was examined for coverage and applicable claim calculations. Prior claims payments were taken into effect, using cancelled checks (provided by Mr. Hogge) if applicable to the claim.¹ Then the cumulative calculations applicable to the plan design were utilized and the resulting figure entered as the final adjudication amount.

Status of Claims Adjudication

As of the filing of the Third Status Report, the Independent Fiduciary had completed the adjudication of submitted billed charges. The adjudicated total was \$352,676.03.² On August 15, 2009, the Independent Fiduciary issued to members of the My Smart Benefit Plan notice of the amount adjudicated and collected proof of payment information from those members whose documentation does not include such proof.³ Members had 30 days within which to respond, providing the requested information

¹ Where a cancelled claim check was submitted for the plan year applicable to the claim, the amount of the check was used in the calculation of the cumulative benefit. Where the claim check did not indicate which family member the claims check was for, the Independent Fiduciary applied the check to the employee member and not to the employee member's dependent or spouse.

² The original adjudications (Class 2 and Class 3) submitted by the Independent Fiduciary in February, 2008, totaled approximately \$404,000.00.

³ All My Smart Benefits Dental plans are dental reimbursement plans. As such, a member was to submit medical form information (generally an ADA claim form) and proof that the member had paid the dentist. My Smart Benefits was to then adjudicate and reimbursement the member the adjudicated benefit amount payable under the dental plan.

and/or submitting to the Independent Fiduciary objections to the notice. 655 members responded providing requested information. Some of these members also provided documentation regarding additional claims that were not provided earlier to the Independent Fiduciary and some objected to the processed amount of their claim, submitting supporting documentation regarding their objection. The Independent Fiduciary resolved all objections from members and completed all processing on November 1, 2009.

CURRENT STATUS OF PROJECT

Pursuant to a request from counsel for Jonathan Hogge, a copy of the completed processing database was forwarded to J. Michael Katz. Through counsel, Mr. Hogge requested an on-site review of the completed processing prior to submission to the Court. It had been anticipated that the review would be conducted in the month of November. However, due to a medical issue on Mr. Hogge's part and the Independent Fiduciary's Chief Operations Officer, Robert E. Moore, Jr. having the H1N1 flu, the review did not take place until November 30 and December 1, 2009.

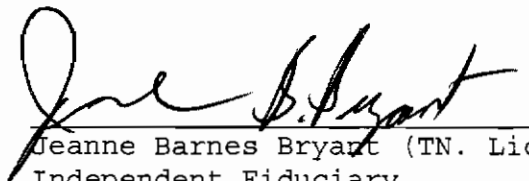
Mr. Hogge reviewed with Mr. Moore the claims of 103 members. The Independent Fiduciary understands that Mr. Hogge did not complete his review during the two days and has some 300 additional members he would like to review. The Independent Fiduciary is reviewing the objections currently raised by Mr. Hogge. Significantly, one of the objections placed by Mr. Hogge is a general objection to the method used to process claims with

prior claims history. This method is outlined above in footnote one and was outlined in the Independent Fiduciary's Third Status Report.

The basis of Mr. Hogge's objection is that information which would indicate for what particular claim a prior claim check was issued does exist and the information is in the possession of the U.S. Department of Labor.

Until the Independent Fiduciary has an opportunity to review this additional information, she is not in a position to accept or oppose Mr. Hogge's objection to the method of claims processing. The Independent Fiduciary is working with the Department of Labor to gain access to this additional information. The Department of Labor has indicated they will send any information requested.⁴ After her review of this information, she will report to the court her decisions regarding this and other objections submitted to her by Mr. Hogge.

Respectfully submitted,



Jeanne Barnes Bryant (TN. License 5835)
Independent Fiduciary
My Smart Benefits Inc. Trust for
Outstanding Claims
783 Old Hickory Blvd, Suite 255
Brentwood, TN 37027
Telephone: 615-370-0051
Fax: 615-373-4336

⁴ The Independent Fiduciary has requested of the DOL copies of any Explanation of Benefits (EOB) relating to pending approved claims. The DOL has agreed to provide this information this month. In addition, the DOL is providing to Mr. Moore access to all information and records regarding My Smart Benefits. Mr. Moore's inspection is scheduled for January 13 thru 15, 2010.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Status Report has been or will be mailed and/or faxed if number available by the 13 day of January, 2010 to all parties noted below:

Peter D. Broitman
Office of the Solicitor
U.S. Department of Labor
230 S. Dearborn Street Room 844
Chicago, IL 60604
Counsel to the Secretary of Labor

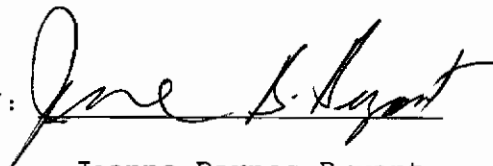
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BY:



Jeanne Barnes Bryant
Independent Fiduciary

Receivership Management, Inc.

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January 13, 2010

U.S. District Court Clerk
Northern District of Indiana
5400 Federal Plaza
Suite 2300
Hammond, IN 46320

RE: Fourth Status Report of the Independent Fiduciary
Hilda L. Solis v. Harris N.A.
File No. 2:07-CV-00068 RL-PRC

Dear Sir or Madam:

On March 8, 2007, the Court appointed me as Independent Fiduciary over My Smart Benefits, Inc. (the "Plan"). My appointment was as a result of a lawsuit brought by the U.S. Department of Labor.

Enclosed please find an original Fourth Status Report of the Independent Fiduciary for filing in Hilda L. Solis v. My Smart Benefits, Inc. File No. 2:07-CV-00068 RL-PRC.

Should you have any questions or require further information, please contact either me or Mr. Robert Moore, Jr. of my office at 615-370-0051.

Sincerely,

Jeanne B. Bryant
Independent Fiduciary
My Smart Benefits, Inc.