

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

FILED

AUG 14 2009

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

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

On May 29, 2009, the Independent Fiduciary filed her Second Status Report (D.E. #100) 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 Third Status Report to update the Court on her progress since her Status Report of May 29, 2009.

ACTIVITY

In the Second Status Report, it was noted that additional information requests had been issued to Mr. Hogge to provide information regarding those employee members whose employers or agents paid their claims. Mr. Hogge responded to these requests

during the month of June and early July.¹ In addition to information requests to Mr. Hogge, information requests were sent to Minot Schools Systems, and the City of Minot, North Dakota. These requests were for census and proof of payment information. These information requests were responded to in June and early July, 2009.

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.² Then the cumulative calculations applicable to the plan design were utilized and the resulting figure entered as the final adjudication amount.

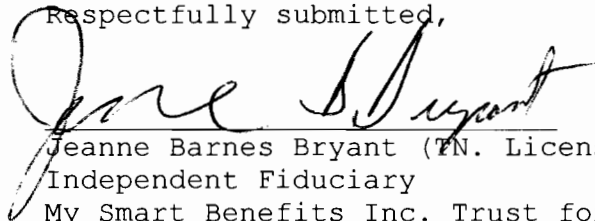
¹ Mr. Hogge has indicated he has provided information available to him. In instances where he was unable to provide requested information, it is the understanding of the Independent Fiduciary that such information was not in his possession.

² 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.

Status of Claims Adjudication

The Independent Fiduciary has completed the adjudication of submitted billed charges. The adjudicated total is \$352,676.03.³ The Independent Fiduciary is proceeding to provide to members of the My Smart Benefit Plan notice of the amount adjudicated and to collect proof of payment information from those members whose documentation does not include such proof.⁴ The Independent Fiduciary intends to provide a 30 day period in which members will provide requested information or submit to the Independent Fiduciary objections to the notice. After allowing for a period to review the information submitted or objections raised, the Independent Fiduciary will then submit to the Court a Plan of Distribution and/or a Motion to Distribute Assets.

Respectfully submitted,



Jeanne Barnes Bryant (TN. License 5835)
Independent Fiduciary
My Smart Benefits Inc. Trust for
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³ The original adjudications (Class 2 and Class 3) submitted by the Independent Fiduciary in February, 2008, totaled approximately \$404,000.00.

⁴ 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.

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 12 day of August, 2009 to all parties noted below:

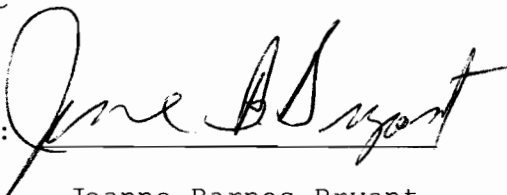
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BY: 

Jeanne Barnes Bryant
Independent Fiduciary