Bockman, Jacqueline

From: Mike McCarter [marsilius@mt.net]
Sent: Monday, April 18, 2005 3:56 PM
To: Palmer, Rex; Martello, Tom; Luck, Brad; Jones Larry; Harrington, Tom
Cc: Wilson, Clara; Bockman, Jacqueline; McCarter, Mike
Subject: Larry's April 12th letter concerning the proposed Flynn letter

Dear Counsel,

I have reviewed Larry's reservations about paragraph 5 of the proposed summons. Since I think it was only copied to Rex, I am attaching it for the rest of you to read.

Larry's concern is with the requirements in paragraph 5. As I understand it, he wants to make certain that the process followed by an insurer is satisfactory and that there won't be a need for a second, supplementary search for claimants entitled to benefits. I think his concern is valid, however, many insurers may be able to provide the information at a comfort level not requiring prior validation from Rex or the Court. Certainly, that has been the case in Ruhd-Rausch.

So what I propose is to leave subparagraphs 5a, 5b and 5c and change the concluding sentence of paragraph 5 to read as follows:

If you are unable to provide the required information within the time provided for your response, *or are uncertain whether the methodology available to you to identify such claimants and their entitlements will satisfy petitioners' counsel and the Court,* then your response should so state, *however,* ~~and~~ *you should further state how you propose to identify claimants and determine their entitlements* ~~indicate what you must do to compile the information~~ and *indicate* the amount of additional time needed to *do* so.

The expansion of the sentence will allow insurers who are uncertain about procedures to so indicate and seek guidance from Rex and the Court, but will also get the ball rolling by requiring that a good faith effort made to formulate a plan to identify claimants.

Larry, if you think further discussion is needed on this, let me know and I will set up a telephone conference.

Judge Mike