



STATE OF WISCONSIN
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CORRESPONDENCE MEMORANDUM

DATE: April 22, 2013
TO: Group Insurance Board
FROM: David H. Nispel, General Counsel
SUBJECT: Status of Pending Legal Cases

This memo is for informational purposes only. No Board action is required.

This memorandum presents the status of pending or recently settled legal cases involving insurance issues and the Department of Employee Trust Funds (ETF) and the Group Insurance Board (GIB). In order to maintain Wisconsin Retirement System (WRS) member confidentiality, the names of the parties and case numbers are not identified in this memorandum.

The purpose of this memorandum is to inform you of litigation in which the GIB and ETF are parties or are otherwise involved, not to provide any legal advice concerning the cases listed here. Each of the cases is being handled by either an assistant attorney general from the Department of Justice (DOJ) or a private attorney retained by Wisconsin Physicians Service (WPS). If you have any questions about a particular case, I will be able to provide you with the name of the attorney handling the case.

As of April 22, 2013, there are seven cases, which can be divided into the following categories:

Circuit Court Cases (4)

ETF (GIB not a party) 2
GIB and ETF..... 2

Subrogation Cases Handled by Private Attorney (3)

(per Article XII, Section H, Administrative
Service Agreement with WPS)
GIB 3

Reviewed and approved by Lisa Ellinger, Administrator, Division of Insurance Services.
Lisa Ellinger Electronically Signed 4/24/13

Board	Mtg Date	Item #
GIB	5.21.13	8E

CIRCUIT COURT CASES

Case No. 1:

Issue – Insurance provider denied payment for a specified service.

Summary – ETF determined that the insurance provider had acted within its discretion under the contract and did not exceed its authority in denying payment of coverage for service. The member also has asserted he was the victim of discrimination and retaliation.

Status – The judicial process for this appeal has ended, since the time period for filing an appeal with the Court of Appeals has expired. On December 18, 2012, the circuit court issued a decision affirming the GIB final decision and order which upheld ETF's department determination. The circuit court also stated the GIB has no equitable powers and the appellant did not provide any legal basis to support his claims of discrimination and retaliation, so those claims were dismissed.

Attorney – DOJ attorney.

Case No. 2:

Issue – Which party is entitled under the applicable law to the life insurance and retirement death benefits of the deceased WRS member.

Summary – The wife and sister of the deceased are involved in litigation to determine who is legally entitled to the life insurance and retirement death benefits. ETF was named as a defendant in an effort to prevent the death benefits from being paid. ETF informed the parties and the court that no payments will be made until the case is resolved.

Status – The parties engaged in mediation but did not resolve the dispute. A trial is scheduled for October 15-17, 2013.

Attorney – DOJ attorney.

Case No. 3:

Issue – Appellant changed health insurance plans but argues the initial health plan is responsible for services because their preauthorization approval should have occurred prior to termination of coverage.

Summary – ETF determined that the initial health plan correctly concluded appellant was ineligible for benefits after he switched his insurance coverage to another plan.

Payment for service received prior to termination was paid by the initial health plan, but coverage for a second requested service that was not received prior to termination was denied. GIB affirmed ETF's determination on November 13, 2012.

Status – An appeal was filed in Dane County Circuit Court on March 25, 2013. No activity has been scheduled.

Attorney – DOJ attorney.

Case No. 4:

Issue – ETF provided income continuation insurance benefits following appellant's involvement in an automobile accident and seeks repayment for those payments made.

Summary – ETF was named an involuntary plaintiff in a Winnebago County Circuit Court case in which the plaintiff seeks damages for personal injuries sustained in the accident and a determination of ETF's subrogation interest.

Status – An appeal was filed in Winnebago County Circuit Court on March 20, 2013. No activity has been scheduled.

Attorney – DOJ attorney.

SUBROGATION CASES

WPS has retained private counsel to handle these cases. No ETF or DOJ attorney is involved in these cases. There are three cases pending in which GIB or ETF has a subrogation interest in an action filed in circuit court by a WRS member because ETF provided benefits to that member following a personal injury.

Staff will be at the Board meeting to answer any questions.