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CORRESPONDENCE MEMORANDUM

DATE: January 27, 2014
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 otherwise involved, not to provide legal advice concerning the cases listed. Each case 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 questions about a particular case, I will provide you with the name of the attorney handling the case.

As of January 27, 2014, there are eight cases, which can be divided into the following categories:

Circuit Court Cases (5)

ETF (GIB not a party) ..... 4
GIB and ETF..... 1

Subrogation Cases Handled by Private Attorney (3)

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

Reviewed and approved by Robert J. Marchant, Deputy Secretary
[Signature]
Electronically Signed:
02/04/2014

Table with 3 columns: Board, Mtg Date, Item #. Row 1: GIB, 2.19.14, 7E

## **CIRCUIT COURT CASES**

### **Case No. 1:**

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. Briefs were filed by plaintiff and defendant/GIB, with the most recent brief by plaintiff filed on November 14, 2013. The parties are awaiting the court's ruling.

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 have not resolved the dispute. A trial has been scheduled for March 31-April 4, 2014.

Attorney – DOJ attorney.

### **Case No. 3:**

Issue – ETF provided income continuation insurance benefits following plaintiff'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 – The case settled and the court issued an order of dismissal on January 3, 2014. ETF recovered the total amount of its subrogation claim.

Attorney – DOJ attorney.

#### **Case No. 4:**

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

Summary – ETF was named a defendant 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 – A jury trial is scheduled for December 1-5, 2014.

Attorney – DOJ attorney.

#### **Case No. 5:**

Issue – ETF provided long-term disability benefits following plaintiff's involvement in an automobile accident and seeks repayment for those payments made.

Summary – ETF was named an involuntary plaintiff in a Portage 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 – Litigation is in the early stages. No trial date has been set.

Attorney – DOJ attorney.

### **SUBROGATION CASES**

WPS has retained private counsel to handle these cases, ETF or DOJ attorneys are not involved. There are three cases pending, in which GIB or ETF has a subrogation interest in a court action filed 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.