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Correspondence Memorandum

Date: April 19, 2019

To: Group Insurance Board

From: David H. Nispel, General Counsel
 Dan Hayes, Attorney
 Office of Legal Services

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 concluded court cases involving insurance issues, the Department of Employee Trust Funds (ETF) and/or 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/or ETF are parties or are otherwise involved, not to provide any legal advice concerning the cases listed here. An assistant attorney general from the Department of Justice (DOJ) represents the GIB and ETF in any litigation in court. If you have questions about a case, we will be able to provide you with the name of the attorney handling it.

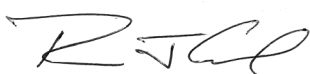
As of April 19, 2019, there are two cases in which the GIB and ETF are parties.

Case No. 1:

Issue – At the time the plaintiffs filed their complaint, Uniform Benefits offered through the State of Wisconsin Group Health Insurance Program contained an exclusion for “Procedures, services and supplies related to surgery and sex hormones associated with gender reassignment.” The issue in this litigation was whether that exclusion violates Title VII of the Civil Rights Act of 1964, the Equal Protection Clause of the 14th Amendment of the U.S. Constitution and the Patient Protection and Affordable Care Act.

Summary – ETF, the GIB, and ETF Secretary Conlin, among others, were named defendants in a complaint filed in the United States District Court for the Western District of Wisconsin. The plaintiffs were two Wisconsin Retirement System members

Reviewed and approved by Robert J. Conlin, Secretary



Electronically Signed 4/23/19

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who were represented by the American Civil Liberties Union and the Hawks Quindel law firm, located in Madison.

Status – On September 18, 2018, the court issued a decision and order in favor of the plaintiffs pursuant to a motion for summary judgment. The court then issued its final decision on October 11, 2018, permanently enjoining the use of the exclusion by the defendants and entering judgment in favor of the plaintiff's in the amount of \$780,500. The amount of attorneys' fees to be awarded was not determined. On November 9, 2018, the State appealed the decision to the United States Court of Appeals for the Seventh Circuit. On November 21, 2018, the plaintiffs filed a cross-appeal. On March 26, 2019, a settlement agreement was filed by the parties. The appeal and cross-appeal were dismissed in exchange for payment of \$1,670,000 to the plaintiffs. The permanent injunction ordered by the Circuit Court remains in place, and the case is closed.

Attorney – DOJ attorneys.

Case No. 2:

Issue – ETF provided prescription drug benefits, through its self-funded drug benefit administered by Navitus Health Solutions, following plaintiff's involvement in an automobile accident and seeks repayment for payments made.

Summary – ETF was named a plaintiff in a Milwaukee 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 was filed on April 3, 2019 and is in the very early stages of litigation.

Attorney – DOJ attorney.

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