

E. Appeal Item Number Five (5)

Cigna's bad faith failure to produce medical documents requested by Mr. XXXX has denied Mr. XXXX a "full and fair" review as required by ERISA.

In a letter dated January 5, 2006 from Cigna Customer Advocacy Specialist Ms. Brenda Warren to Mr. XXXX, Cigna appropriately reinstated Mr. XXXX's waiver of premium benefits on the basis the decision was "premature." The letter also noted that an FCE and IME had been scheduled and made the following offer of assistance to Mr. XXXX: "If there is any other medical documentation you would like us to consider in the review of your claim, please submit it us at this time. If you need assistance in obtaining your medical documentation, please let us know from whom you would like us to request your records." (Emphasis added).

On January 11, 2006, Mr. XXXX responded in a letter to Ms. Warren's offer. In that letter, Mr. XXXX provided Ms. Warren with the names of five (5) medical practitioners from whom to request medical documentation on his behalf. He wanted the medical documentation in the file for both Cigna and the IME physician's review and furthermore, he wanted this documentation to rebut Cigna's blatant misrepresentation in correspondence dated December 21, 2005, wherein Ms. Natalie Fulton baselessly asserted that Mr. XXXX did not have one of his twelve surgical procedures.

On January 13, 2006, Ms. Warren wrote a letter acknowledging Mr. XXXX's request and stated: "we will be requesting the medical information you referenced from your doctors."

On January 31, 2006, Mr. XXXX emailed Ms. Warren to follow-up on the requests because he knew the scheduled date of the IME was approaching. Mr. XXXX sought to confirm that the IME physician would be in possession of the records when conducting his exam. Mr. XXXX asked Ms. Warren in this correspondence for copies of the requests for medical information. He listed the five (5) medical practitioners once again.

In a February 1, 2006 letter Ms. Warren responded to Mr. XXXX's second request with the following admission: "We will provide you with copies of our medical our requests for medical information as they are made. As of this writing, the information you listed has not yet been requested from your doctors."

Inexplicably, the IME took place on February 7, 2006 without the information being requested.

In an email on February 14, 2006 to Ms. Warren, Mr. XXXX asked, now for the **third** time: "I still have not received confirmation that the medical records you were to request on my behalf have been requested. Please let me know when they will be requested."

In a March 3, 2006 letter sent via email, Ms. Warren acknowledged receipt of Mr. XXXX's email dated February 14, 2006 but ignored subject of the medical requests. Instead, she informed Mr. XXXX that she returned the "file" to the claim team. That very same day, March 3, 2006, Mr. XXXX responded to Ms. Warren's letter in an email asking for a **fourth** time "If you do not intend to live up to your offer to request the medical information in good faith, please let me know." (Emphasis added].

In a letter March 14, 2006 Ms. Warren responded to Mr. XXXX's March 3, 2006 email, representing: "I have referred your request to the claim team reviewing your file and have asked that they provide you with copies of any requests for information they have made."

After no documents were forthcoming, Mr. XXXX asked for the records requests for **fifth** time in an email dated March 20, 2006 to Mr. Alan Gass:

"In Ms. Warren's communication dated 3/14/06 she passed on to you for your handling an offer she made in her correspondence dated January 5, 2006 wherein she stated 'If there is any other medical documentation you would like us to consider in review of your claimplease let us know from whom you would like us to request your records.' I provided Ms Warren with a list of medical practitioners that I wanted medical information requested from. We are over two months and I still have not received confirmation that the information was requested by Cigna for review per her offer. Since Ms Warren keeps mentioning the case is under review in her correspondence I find it questionable this information has not been requested yet."

Mr. Gass failed to respond to Mr. XXXX. On March 25, 2006, two days before Mr. XXXX's twelfth knee surgery, he wrote to Mr. Gass and stated: "I would like to note my dissatisfaction with Ms. Warren's empty offer to request materials from medical practitioners on my behalf for review of my case. Over two months have passed and no requests have been made. Why make the offer if Cigna has no intention of following through?" (Emphasis added).

Mr. XXXX had his twelfth knee surgery on March 27, 2006 without a response from Mr. Gass on the medical requests.

On April 14, 2006, Ms. Latonya Puckett wrote in a letter: "In your email of March 25, 2006, you indicated your dissatisfaction regarding request for records to your treating providers. Ms. Warren advised you that we would request medical from your providers and have done so. We were awaiting the results of the IME before sending any requests."

Dumbfounded by Ms. Puckett's statement, Mr. XXXX responded to Ms. Puckett's letter on April 21, 2006 wherein he wrote:

Ms. Puckett, the whole concept of full and informed (non-cherry picked) decision-making is to provide the IME with all of the information **BEFORE** it is

performed. Not after the fact. Ms. Warren's offer to request documentation and my response indicating which records to request occurred in early January. Well before the IME. If it was Cigna's intent to wait until the results of the IME were received why didn't you state so in response to my numerous, repeat and follow-up requests on the issue? It is simply inexplicable why Cigna would wait until after the IME results were received and certainly further illustrates a concerted and vindictive "selective review".

On April 23, 2006, Mr. XXXX, for a **sixth time**, demanded copies of the medical requests as had been promised him by Ms. Warren. Mr. XXXX had lost faith that Cigna was living up to their fiduciary responsibilities and did not trust the representation that Cigna had actually made the medical requests, given that no such requests had been provided to Mr. XXXX and none appeared to be forthcoming. He wrote to Ms. Puckett:

In your letter dated April 14, 2006 you state "Ms. Warren advised you that we would request medical from your providers and have done so." Ms. Warren also stated in her letter dated February 1, 2006. **"We will provide you with copies of our requests for medical information as they are made....** I have attached Ms. Warren's letter dated 2/1/2006. Please make sure it is part of the administrative claim file and please provide me the copies of the requests for medical documentation from my providers per Ms. Warren's letter..... It is disturbing to note that Dr. XXXX did not mention any of the records I wanted requested in his report....

Ms. Puckett's letter to Mr. XXXX dated April 24, 2006 entirely avoided the issue of the medical requests and did not respond to Mr. XXXX's demand for copies. Accordingly, on May 01, 2006 Mr. XXXX, for a **seventh** time, emailed Ms. Puckett pressing for copies of the medical requests.

Coincidentally, just one day later, on May 02, 2006, Ms. Puckett, via overnight mail, retroactively terminated Mr. XXXX's benefit without providing the copies of the medical requests as promised by Ms. Warren. The denial of benefits wrecked havoc on Mr. XXXX's painful post surgical, eight week rehabilitation program prescribed by both his knee and his spinal physicians. Cigna never requested a single post surgical report from Mr. XXXX's physicians prior to the adverse determination.

Subsequent to the May 02, 2006 denial of benefits, Mr. XXXX, through his attorneys, has made four additional requests for either the "identification" and/or the production of the medical records initially promised to be requested by Ms. Warren. Cigna has provided neither. Furthermore, the claim file itemization above evidences that the very last request for medical documentation contained in the claim file produced by Cigna is dated November 25, 2005. The lack of identification or production of any medical requests beyond November 25, 2005 indicates that Ms. Puckett was untruthful in her letter dated April 14, 2006.

Cigna's failure to request the records as offered by Ms. Brenda Warren, and which Ms. Puckett explicitly represented were in fact requests, dictates that the denial of his benefits be reversed. Ms. Warren's offer to request these records is an admission that they were relevant to, and must have been part of, Cigna's analysis of Mr. XXXX's continuing eligibility for his long term disability benefits and his waiver of premium benefits. Indeed, Mr. XXXX was clearly denied a "full and fair" review regarding the medical requests and the medical documentation; neither Cigna nor Cigna's Independent Medical Evaluator, Dr. XXXX reviewed the documents; Cigna did not honor its fiduciary responsibilities, acted in bad faith, made an empty offer and then was untruthful about it. In an attempt to conceal the act of bad faith, Cigna vindictively and hastily denied Mr. XXXX's benefits because he continually pressed for the production of the copies of Cigna's alleged records requests.