

MEMORANDUM

Date: October 31, 2009

To: Members of the NAIC
General Counsel

From: Gail M. Sciacchetano, Deputy General Counsel
Sarah Heidenreich, Staff Attorney

Re: *Langendorf v. Conseco Senior Health Ins. Co.*
Case Number 08-CV-3914

Executive Summary

This class action lawsuit alleges Conseco Senior Health Insurance Company and Conseco, Inc. (“Conseco”) denied claims under health insurance or long term care policies based on insufficient documentation where plaintiffs submitted documentation in the form of Medicare verifications (Medicare Summary of Benefits or Explanation of Benefits (EOB)). The complaint alleges that the Medicare verifications are adequate proof of loss because they provide the same additional information that Conseco requested from plaintiffs.

The original complaint was filed in the Circuit Court of Cook County, Illinois, Chancery Division on June 9, 2008. An amended complaint was filed in the United States District Court for the Northern District of Illinois on August 8, 2008.

The plaintiffs allege that the Medicare verification forms are sufficient because they contain specific claim information including: an itemization of treatments with diagnosis codes, dates of service, provider names and addresses, amounts charged by the provider and amounts approved by Medicare. Despite this documentation Conseco allegedly requested additional proof of loss and/or denied claims for failure to provide proof of loss.

The settlement class consists of all United States residents over the age of sixty-five who: (i) own or formerly owned a Conseco Senior Health Insurance Company hospital indemnity policy (“Policy”); and (ii) who submitted a claim for benefits under their Policy; and (iii) who submitted Medicare EOB forms as proof of claim; and (iv) whose claims were denied on the basis that the Medicare EOB form did not satisfy the Proof of Loss provision of their Policies.

The settlement allows plaintiffs and class members to resubmit claims and revises the Proof of Loss provision in all Conseco Senior hospital indemnity policies.

Contact Information

Settlement information may be obtained by contacting:

Larry D. Drury, Esq.
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CENTRAL OFFICE	2301 McGee Street, Suite 800	Kansas City, MO 64108-2662	p 816 842 3600	f 816 783 8175
SECURITIES VALUATION OFFICE	48 Wall Street, 6th Floor	New York, NY 10005-2906	p 212 398 9000	f 212 382 4207

The pleadings are available through the official court electronic document filing system for the United States District Court, Northern District of Illinois, by logging on to <http://www.ilnd.uscourts.gov>.

History of the Case

The plaintiffs filed suit in Circuit Court of Cook County, Illinois, Chancery Division on June 9, 2008. An amended complaint was filed in the United States District Court for the Northern District of Illinois on August 8, 2008.

The plaintiffs, on behalf of themselves and other similarly situated plaintiffs, asserted claims for breach of contract for failure to pay claims and breach of the Illinois Consumer Fraud and Deceptive Business Practices Act and similar state statutes which prohibit false, misleading, and unfair acts or practices based on Conseco's denial of claims and/or failure to accept Medicare verifications as proof of loss under Conseco's Senior Health Insurance Company hospital indemnity policies. According to the allegations of the complaint, Conseco denied claims or required additional proof of loss where plaintiffs and class members submitted Medicare EOB Forms as proof of loss. Conseco allegedly maintained that those forms were insufficient proof of loss and allegedly requested additional proof of loss such as health care provider bills on provider letterhead listing itemized diagnosis codes for treatment rendered. However, plaintiffs allege that similar information, including itemized diagnosis codes, were contained on the Medicare EOB form.

The defendants deny all material allegations of the amended complaint and deny any wrongdoing.

The stipulation of settlement was filed on July 29, 2009. A public settlement fairness hearing will be held on November 18, 2009 at 10:30 a.m. in the Everett McKinley Dirksen United States District Courthouse, 219 South Dearborn Street, Chicago, IL 60604.

Terms of the Settlement Proposed in the Stipulation Filed July 29, 2009

The agreement provides relief as follows:

- Class members are entitled to resubmit claims which were previously submitted during the time period from December 1, 2005 through May 1, 2009 and were denied on the basis the Medicare EOB forms did not satisfy the proof of loss provisions of their policies. Class members shall have 90 days from the date on which the Notice of Class Action, Proposed Settlement and Hearing was mailed to resubmit their claims. A Medicare EOB form alone is not sufficient proof of loss for the resubmitted claims.
- Conseco agrees to revise its Proof of Loss provision in Conseco Senior hospital indemnity policy forms. The revisions provide the following may be required as Proof of Loss:
 - Completed company claims forms;
 - Marriage certificate, and death certificates;
 - A Pathologist's report;
 - A Physician's statement;
 - Itemized bills for services rendered;
 - Hospital, medical and Physician records;
 - Autopsy report; and,
 - Medical and pharmaceutical receipts.
- Conseco agrees to provide a letter to Plaintiffs and Class Members which can be disclosed to health care providers for the purpose of promoting cooperation in complying with the terms of the Settlement Agreement.

Domiciliary or other Regulator Involvement

State Insurance Departments should be aware of the change to Consec's proof of loss provision pursuant to the settlement. No regulatory activities are challenged.

Should you need further information, please do not hesitate to contact Gail Sciacchetano at 816-783-8019, or Sarah Heidenreich at 816-783-8064.