Confidential

Billerica Plant
May 27, 1970

...ugh Jackson, GHQ

cc: J. D. McGee, GHQ
C. L. Sheckler, GHQ
... E. Mell
File
Chron.

I have run into a problem with Travelers over the payment of weekly benefits to employees who are out sick with a non-industrial illness, but who also may have some degree of asbestosis.

While the recent specific case involves George Lewis, I would anticipate a few more similar ones in the next several years, as our older employees become ill, of some non-industrial nature, and we know them to have some degree of asbestosis.

It would seem to me that my situation may occur in other plants as well, and I need some guidance in resolving this matter, to forestall other employees from attempting to file for Workmen's Compensation when asbestosis is not the primary cause.

George Lewis' last work day was 10/21/69, and he went into the hospital with a diagnosis of "Hemefibrothorax, right, secondary to ? trauma ? Pneumoconiosis (asbestosis)." Where a "Thoracentesis and Pleural Biopsy" occurred on 10/24/60, a "Bronchoscopy" occurred on 10/28/69, and "Scalene Fat Pad Excision" occurred on 10/28/69, performed by our own Plant Physician, Dr. ...ober. (All quotes appear exactly on the Travelers Physician's statement).

At no time was the hospitalization and tumor operation considered industrial, and Travelers paid weekly benefits without question. Lewis returned to work 2/9/70 for two weeks and went out again on 2/20/70, unable to perform his job, as a result of the operation.

We paid Lewis the following 4 weeks with vacation pay, at his request. Travelers erroneously paid for this same 4 week period, but we would not pay Lewis their check until the 4 weeks following the end of his 4 weeks of vacation, so no duplication occurred.

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At that point Travelers requested a supplemental physician's statement and I accidentally met Traveler's investigator at the Lewis house about April 17, 1970. Outside the house I discussed the case with him and he stated that he was very concerned about the danger of the case becoming industrial (because of asbestosis appearing under the doctor's diagnosis, Part B, attached), and was stopping benefits and writing to the home office for advice.

I asked him not to obtain a release from Lewis, because I did not want to tip him off that he had any possible grounds for an industrial disease claim, copy is attached.

However, because this claim was stopped, kicked around, and a decision delayed, Lewis inquired from Travelers why, and I could not prevent him from discovering their concern, and reason for refusing to pay weekly benefits.

The very thing I was attempting to prevent consequently occurred. Lewis promptly went to an attorney and now is starting legal action, as well as Workmen's Compensation action with the Massachusetts Industrial Accident Board. I fear that this will be a long and costly case, Lewis is far from well, is not recovering satisfactorily and yet is only 55 years old. He had been told several years ago that he had indications of having asbestosis.

On 5/12/70 I discussed briefly the problem with Bob Young and consequently I wrote a letter to Travelers agreeing to reimburse them for benefits paid in the event it became an industrial settlement in the future. This did not suffice for Travelers, however.

On 5/15/70 I called Jim McGee about the problem and he suggested that I write him the details of the matter.

Also on 5/15/70 Travelers called me and stated that if they could get Lewis to sign a release they would reinstate benefits since the claim was already re-opened, but that in the future they would question any case which might have an industrial undertone, especially asbestosis.

On 5/20/70 I gave Lewis the release to sign, but he would not until his attorney approved it, and then it was changed slightly and retyped and signed, copy is attached.

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On 5/21/70 Travelers would not accept his release with paragraph 3 revised, so in order to satisfy them I agreed to sign another statement, copy is attached. Benefits are now being paid satisfactorily.

I would not be so concerned except that we must separate non-industrial illness from industrial illness, and it appears that Travelers will henc forth thoroughly investigate and question all claims.

There will be cases where an employee should be receiving benefits for which we pay for, whether there is industrial disease or an "alleged" injury, which we may deny, such as our Thomas Bartlett and Roland La Pointe as examples.

We cannot or should not permit Travelers to refuse to pay the employee anything during the time we are investigating or debating the possibility of an industrial claim, whether he is out on a non-industrial disease or illness or not.

From the standpoint of Johns-Manville's obligation to our employees' welfare, we should not cause them to suffer loss of weekly benefits from Travelers if they are out sick with a non-industrial primary cause, such as stroke, heart attack, high blood pressure, etc., even though there may be other complications, of an industrial implication.

Frankly, I can foresee a few similar cases to Lewis in the future, and therefore request some advice, or a decision from you. I have not written to Jim McGee or Cliff Sheckler because I felt that the decision involves both group insurance and Workmen's Compensation and has to be looked at from an [illegible] point, however, they have been sent copies.

Paul W. Chapman

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